

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

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2020

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number: 002-25577

DIODES INCORPORATED

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation or organization)
4949 Hedgcoxe Road, Suite 200
Plano, Texas
(Address of principal executive offices)

95-2039518
(I.R.S. Employer
Identification No.)

75024
(Zip Code)

Registrant's telephone number, including area code: (972) 987-3900

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

Title of each class
Common Stock, Par Value \$0.66 2/3

Trading Symbol(s)
DIOD

Name of each exchange on which registered
The NASDAQ Stock Market LLC

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

None

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

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

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

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

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

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

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

The aggregate market value of the 42,101,268 shares of Common Stock held by non-affiliates of the registrant, based on the closing price of \$50.70 per share of the Common Stock on the Nasdaq Global Select Market on June 30, 2020, the last business day of the registrant's most recently completed second fiscal quarter, was approximately \$2.1 billion.

The number of shares of the registrant's Common Stock outstanding as of February 16, 2021 was 44,283,332.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive proxy statement to be filed with the United States Securities and Exchange Commission ("SEC") pursuant to Regulation 14A in connection with the 2020 annual meeting of stockholders are incorporated by reference into Part III of this Annual Report. The proxy statement will be filed with the SEC not later than 120 days after the registrant's fiscal year ended December 31, 2020.

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PART I

Item 1. Business.

GENERAL

Diodes Incorporated, together with its subsidiaries (collectively the “Company,” “we” or “our” (Nasdaq: DIOD), a Standard and Poor's Smallcap 600 and Russell 3000 Index company, is a leading global manufacturer and supplier of high-quality application specific standard products within the broad discrete, logic, analog, and mixed-signal semiconductor markets. Diodes serves the consumer electronics, computing, communications, industrial, and automotive markets.

Diodes' products include diodes, rectifiers, transistors, MOSFETs, GPP bridges, GPP Rectifiers, protection devices, function-specific arrays, single gate logic, amplifiers and comparators, Hall-effect and temperature sensors, power management devices, including LED drivers, AC-DC converters and controllers, DC-DC switching and linear voltage regulators, and voltage references along with special function devices, such as USB power switches, load switches, voltage supervisors, and motor controllers. Diodes also has timing, connectivity, switching, and signal integrity solutions for high-speed signals.

Diodes' corporate headquarters and Americas' sales office are located in Plano, Texas, and Milpitas, California. Design, marketing, and engineering centers are located in Plano; Milpitas; Taipei, Taoyuan City, Zhubei City, Taiwan; Shanghai, Yangzhou, China; Oldham, England; and Neuhaus, Germany. Diodes' wafer fabrication facilities are located in Oldham, Greenock, UK and Shanghai and Wuxi, China and Keelung and Hsinchu, Taiwan. Diodes has assembly and test facilities located in Shanghai, Jinan, Chengdu and Wuxi, China as well as in Neuhaus, Germany and Zhongli and Keelung, Taiwan. Additional engineering, sales, warehouse, and logistics offices are located in Taipei, Taiwan; Hong Kong; Oldham, UK; Shanghai, Shenzhen, Wuhan and Yangzhou, China; Seongnam-si, South Korea; and Munich, Frankfurt, Germany; with support offices throughout the world.

The company's manufacturing facilities have achieved certification in the internationally recognized standards of ISO9001:2015, IATF16949:2016, and ISO14001:2015.

- Diodes Incorporated is also C-TPAT certified.
- We believe these Quality Awards reflect the superior quality-control techniques established at Diodes Incorporated and further enhance our credibility as a vendor-of-choice to OEMs increasingly concerned with quality and consistency.

Our product focus is on high-growth end-user equipment markets such as satellite TV set-top boxes, portable DVD players, datacom devices, ADSL modems, power supplies, medical devices (non-life support devices/systems), PCs and notebooks, flat panel displays, digital cameras, mobile handsets, AC-to-DC and DC-to-DC conversion, Wireless 802.11 LAN access points, brushless DC motor fans, serial connectivity, and automotive applications.

Our product line includes over 25,000 products, and we shipped approximately 43 billion units in 2020 and 2019 and approximately 46 billion units in 2018. From 2016 to 2020, our annual net sales grew from \$942.2 million to \$1.2 billion, representing a compound annual growth rate of approximately 7.7%.

BUSINESS OUTLOOK

During 2020 our annual revenue declined approximately \$19.9 million or 1.6% from the revenue level achieved in 2019. This decrease in revenue for 2020 compared to 2019 reflects the impact of the COVID-19 pandemic outbreak on the Company and the world-wide economy. We continue to work towards our previously stated goals for 2025 of \$1.0 billion in gross profit which represents \$2.5 billion in revenue and a gross margin of 40%. Acquisitions remain a key part of our growth strategy to reach our revenue goal and in November 2020 we acquired Lite-On Semiconductor Corporation (“LSC”) and its subsidiaries. The acquisition of LSC broadens our discrete product offerings, including providing us with a leadership position in glass-passivated bridges and rectifiers that will allow us to further extend our position in the automotive and industrial market spaces consistent with Diodes' overall growth strategy. Further, the acquisition expands our wafer fabrication and assembly and test capacity and provides us an opportunity to improve LSC's profitability through operating and manufacturing improvements as well as increased factory utilization.

We have a solid pipeline of designs and expanded customer relationships across all regions and product lines. The success of our business depends on, among other factors, the strength of the global economy and the stability of the financial markets, our customers' demand for our products, the ability of our customers to meet their payment obligations, the likelihood of customers not canceling or deferring existing orders, and the strength of consumers' demand for items containing our products in the end-markets we serve. We believe the long-term outlook for our business remains generally favorable, despite the uncertainties in the global economy, as we continue to execute on the strategy that has proven successful for us over the years. See “Management's Discussion and Analysis of

Financial Condition and Results of Operations – Business Outlook” in Part II, Item 7 and “Risk Factors – *The success of our business depends on the strength of the global economy and the stability of the financial markets, and any weaknesses in these areas may have a material adverse effect on our net sales, operating results and financial condition.*” in Part I, Item 1A of this Annual Report for additional information.

SEGMENT INFORMATION AND ENTERPRISE-WIDE DISCLOSURES

For financial reporting purposes, we operate in a single segment, standard semiconductor products, through our various design, manufacturing and distribution facilities. We sell product primarily through our operations in Asia, North America and Europe. See Note 16 of “Notes to Consolidated Financial Statements” of this Annual Report for addition information.

OUR INDUSTRY

Semiconductors are critical components used to manufacture of a broad range of electronic products and systems. Since the invention of the transistor in 1948, continuous improvements in semiconductor processes and design technologies have led to smaller, more complex and more reliable devices at a lower cost per function. The availability of low-cost semiconductors, together with increased customer demand for sophisticated electronic systems, has led to the proliferation of semiconductors in diverse end-use applications.

OUR COMPETITIVE STRENGTHS

We believe our competitive strengths include the following:

Flexible, scalable and cost-effective manufacturing – Our manufacturing operations are a core element of our success, and we have designed our manufacturing base to allow us to respond quickly to changes in demand trends in the end-markets we serve. For example, we have structured our assembly and test facilities to enable us to rapidly and efficiently add capacity and adjust product mix to meet shifts in customer demand and overall market trends. Our manufacturing facilities located in Shanghai and Chengdu provide us with access to a workforce at a relatively low overall cost base while enabling us to better serve our leading customers, many of which are located in Asia. See “Risk Factors – *During times of difficult market conditions, our fixed costs combined with lower net sales and lower profit margins may have a negative impact on our business, operating results and financial condition.*” in Part I, Item 1A of this Annual Report for additional information.

Integrated packaging expertise – Our expertise in designing and manufacturing innovative and proprietary packaging solutions enables us to package a variety of different device functions into an assortment of packages ranging from miniature chip-scale packaging to packages that integrate multiple separate discrete and/or analog chips into a single semiconductor product called an array. Our ability to design and manufacture multi-chip semiconductor solutions as well as advanced integrated devices provides our customers with products of equivalent functionality with fewer individual parts, and at lower overall cost, than alternative products. This combination of integration, functionality and miniaturization makes our products well suited for high-volume consumer electronic devices such as appliances, chargers, digital cameras, DVD and Blu-Ray players, global positioning devices, lighting, LED televisions, LCD panels, set-top boxes and consumer portables such as smartphones, tablets and notebooks.

Broad customer base and diverse end-markets – Our customers are comprised of leading direct sales customers as well as major electronic manufacturing services (“EMS”) providers. Overall, we serve 334 direct sales customers worldwide and tens of thousands of additional customers through our 121 distributors. Our products are ultimately used in end-products in a number of markets served by our broad customer base, which we believe makes us less susceptible to market fluctuations driven by either specific customers or specific end-user applications.

Customer-focused product development – Effective collaboration with our customers and a commitment to customer service are essential elements of our business. We believe focusing on dependable delivery and support tailored to specific end-user applications has fostered deep customer relationships and created a key competitive advantage for us in the highly fragmented discrete, logic and analog and mixed-signal semiconductor marketplace. We believe our close relationships with our customers have provided us with keener insight into our customers’ product needs. This results in a stronger demand for our product designs and often provides us with insight into additional opportunities for new design wins in our customers’ products. See “Risk Factors – *We are and will continue to be under continuous pressure from our customers and competitors to reduce the price of our products, which could adversely affect our growth and profit margins*” in Part I, Item 1A of this Annual Report for additional information.

Management experience –The members of our executive team average over 30 years of industry experience, and the length of their service has created significant institutional insight into our markets, our customers and our operations. See “Risk Factors – *We may fail to attract or retain the qualified technical, sales, marketing, finance and management/executive personnel required to operate our business successfully, which could adversely affect our business, operating results and financial condition.*” in Part I, Item 1A of this Annual Report for additional information.

OUR STRATEGY

Our strategy is to continue to enhance our position as a leading global designer, manufacturer and supplier of high-quality application-specific standard semiconductor products, utilizing our innovative and cost-effective assembly and test (packaging) technology and leveraging our process expertise and design excellence to achieve above-market growth in profitability.

The principal elements of our strategy include the following:

Continue to rapidly introduce innovative discrete, logic and analog and mixed-signal semiconductor products – We intend to maintain our rapid pace of new product introductions, especially for high-volume, high-growth applications with short design cycles, such as LCD and LED televisions and panels, set-top boxes, portables such as smartphones, tablets and notebooks along with other consumer electronics and computing devices, as well as added emphasis on products for the LED lighting market and the industrial and automotive markets. During 2020 and 2019, we continued to achieve many significant new design wins with our direct sales customers. Although a design win from a customer does not necessarily guarantee future sales to that customer, we believe that continued introduction of new and well-defined product solutions is critically important in maintaining and extending our market share in the highly competitive semiconductor marketplace. See “Risk Factors – *Obsolete inventories as a result of changes in demand for our products and change in life cycles of our products could adversely affect our business, operating results and financial condition.*” in Part I, Item 1A of this Annual Report for additional information.

Expand our available market opportunities – We believe we have many paths to increasing our addressable market opportunity. From a product perspective, we intend to continue expanding our product portfolio by developing derivative and enhanced performance devices that target adjacent markets and end-equipment. We will continue to cultivate new and emerging customers within our targeted markets, further increasing our already broad customer base. As we focus on new customers, we try to expand our product portfolio penetration within these new, as well as existing, customers. As we expand our extensive range of high power efficiency and small form factor packages, we plan to introduce new and existing product functions in these new packages to allow an even greater market coverage.

Maintain intense customer focus – We intend to continue to strengthen and deepen our customer relationships. We believe that continued focus on customer service is important and will help to increase our net sales, operating performance and market share. To accomplish this, we intend to continue to closely collaborate with our customers to design products that meet their specific needs. A critical element of this strategy is to further reduce our design cycle time in order to quickly provide our customers with innovative products. Additionally, to support our customer-focused strategy, we continue to expand our sales force and field application engineers, particularly in Asia and Europe, during periods of growth. See “Risk Factors – *We are and will continue to be under continuous pressure from our customers and competitors to reduce the price of our products, which could adversely affect our growth and profit margins.*” in Part I, Item 1A of this Annual Report for additional information.

Enhance cost competitiveness – A key element of our success is our overall low-cost manufacturing base. While we believe our manufacturing facilities are among the most efficient in the industry, we will continue to refine our proprietary manufacturing processes and technology to achieve additional cost efficiencies. We have continued to make capital expenditures to enhance our existing manufacturing capabilities.

Pursue selective strategic acquisitions – As part of our strategy to expand our semiconductor product offerings and to maximize our market opportunities, we may acquire technologies, product lines or companies in order to enhance our product portfolio and accelerate our new product offerings. Since 2006 we have acquired a number of companies that enhanced our product portfolio, including Pericom Semiconductor Corporation (“Pericom”) in 2015. In 2019, we acquired from Texas Instruments a 200mm wafer fabrication facility and operations located in Greenock, Scotland (“GFAB”). The acquisition of GFAB adds to our existing global footprint, but also provides expanded wafer capacity to support our product growth, in particular for the automotive market. In November 2020 we acquired Lite-On Semiconductor Corporation (“LSC”) and its subsidiaries. The acquisition of LSC broadens our discrete product offerings, including providing us with a leadership position in glass-passivated bridges and rectifiers that will allow us to further extend our position in the automotive and industrial market spaces consistent with Diodes’ overall growth strategy. Further, the acquisition expands our wafer fabrication and assembly and test capacity and provides us an opportunity to improve LSC’s profitability through operating and manufacturing improvements as well as increased factory utilization.

See “Risk Factors – *Part of our growth strategy involves identifying and acquiring companies. We may be unable to identify suitable acquisition candidates or consummate desired acquisitions and, if we do make any acquisitions, we may be unable to successfully integrate any acquired companies with our operations, which could adversely affect our business, operating results and financial condition*” in Part I, Item 1A and Note 19 of “Notes to Consolidated Financial Statements” of this Annual Report for additional information.

OUR PRODUCTS

Our product portfolio includes over 25,000 products that are designed for use in high-volume consumer electronic devices such as LCD and LED televisions and LCD panels, set-top boxes and consumer portables such as smartphones, tablets and notebooks. Our

focus is on low pin count semiconductor devices with one or more active and/or passive components. We target and serve end-equipment markets that we believe have larger volumes than other end-market segments served by the overall semiconductor industry.

Our broad product line includes:

- Discrete semiconductor products, including: MOSFET, TVS, performance Schottky rectifiers; GPP Bridges, GPP Retifiers performance Schottky diodes; Zener diodes and performance Zener diodes, including tight tolerance and low operating current types; standard, fast, super-fast and ultra-fast recovery rectifiers; bridge rectifiers; switching diodes; small signal bipolar transistors; prebiased transistors; MOSFETs; thyristor surge protection devices; and transient voltage suppressors;;
- Analog products, including: power management devices such as AC-DC and DC-DC converters, USB power switches, low dropout and linear voltage regulators; standard linear devices such as operational amplifiers and comparators, current monitors, voltage references, and reset generators; LED lighting drivers; audio amplifiers; and sensor products including Hall-effect sensors and motor drivers;
- Mixed-signal products including: High speed mux/demux, Digital Switches, Interface, Redelivers, Clock IC, Packet Switches;
- Standard logic products including low-voltage complementary metal-oxide-semiconductor (“CMOS”) and advanced high-speed CMOS devices; ultra-low power CMOS logic; and analog switches;
- Multichip products and co-packaged discrete, analog and mixed-signal silicon in miniature packages;
- Silicon and silicon epitaxial wafers used in manufacturing these products; and
- Frequency Control Products (“FCP”) used in many of today’s advanced electronic systems. FCPs are electronic components that provide frequency references such as crystals and crystal oscillators for automotive, industrial, computing, communication and consumer electronic products.

The following table lists the end-markets, some of the applications in which our products are used, and the percentage of net sales for each end-market for the last three years:

End-Markets *	2020	2019	2018	End product applications
Industrial	23%	28%	26%	Lighting, power supplies, DC-DC conversion, security systems, motor controls, DC fans, proximity sensors, solenoid and relay driving, solar panel, HAVC/LED lighting, retrofit bulb
Consumer Electronics	25%	23%	25%	Digital audio players and cameras, set-top boxes, LCD and LED TV’s, game consoles, portable GPS, fitness and health monitors, action cameras, smart watches
Communications	21%	23%	24%	Mobile handsets, smartphones, IP in gateways, routers, switches, hubs, fiber optics
Computing	20%	16%	17%	Notebooks, tablets, LCD monitors, printers, solid state and hard disk drive, servers, mass storage, cloud
Automotive	11%	10%	9%	Comfort controls, lighting, audio/video, GPS navigation, satellite radios, electronics

* Amounts in the table may not total 100% due to rounding

PRODUCT PACKAGING

Our device packaging technology includes a wide variety of innovative surface-mounted packages. Our focus on the development of smaller, more thermally efficient, and increasingly-integrated packaging, is a critical component of our product development. We provide a comprehensive offering of miniature high power density packaging, enabling us to fit our components into smaller and more efficient packages, while maintaining the same device functionality and power handling capabilities. Smaller packaging provides a reduction in the height, weight and board space required for our components. Our products are well suited for battery-powered, hand-held and wireless consumer electronic applications and high-volume consumer electronic devices such as LCD and LED televisions and LCD panels, set-top boxes and consumer portables such as smartphones, tablets and notebooks.

CUSTOMERS

We serve 334 direct customers worldwide, including major direct sales customers and EMS providers. Additionally, we have 121 distribution customers worldwide, through which we indirectly serve tens of thousands of customers. Our customers represent leading direct sales customers representing a broad range of industries, leading EMS providers and leading distributors.

For the years 2020, 2019 and 2018, our direct sales and EMS customers together accounted for 41%, 33% and 29%, respectively, of our net sales. One customer, a broad-based distributor serving thousands of customers, accounted for 10% or more of our net sales in 2019 and 2018, but not 10% of our outstanding accounts receivable at December 31, 2020 or 2019. In addition, for information concerning our business with related parties, see “Business – Certain Relationships and Related Party Transactions.”

We believe that our close relationships with our customers have provided us with deeper insight into our customers’ product needs. In addition to seeking to expand relationships with our existing customers, our strategy is to pursue new customers and diversify our customer base by focusing on leading global consumer electronics companies and their EMS providers and distributors. See “Risk Factors – *Our customers require our products to undergo a lengthy and expensive qualification process without any assurance of product sales and may demand to audit our operations from time to time. A failure to qualify a product or a negative audit finding could adversely affect our net sales, operating results and financial condition.*” in Part I, Item 1A of this Annual Report for additional information.

We generally warrant that products sold to our customers will, at the time of shipment, be free from defects in workmanship and materials and conform to our approved specifications. Subject to certain exceptions, our standard warranty extends for a period of one year from the date of shipment. Warranty expense has not been significant. Generally, our customers may cancel orders on short notice without incurring a penalty. See “Risk Factors – *Our customer orders are subject to cancellation or modification usually with no penalty. High volumes of order cancellation or reduction in quantities ordered could adversely affect our net sales, operating results and financial condition.*” in Part I, Item 1A of this Annual Report for additional information.

The tables below set forth net sales for the Company disaggregated into geographic locations based on shipment and by type (direct sales or distributor) for the twelve months ended December 31, 2020, 2019 and 2018:

Net Sales by Region	Net Sales by Type for the Twelve Months Ended December 31,		
	2020	2019	2018
Asia	\$ 961,376	\$ 942,576	\$ 944,117
Europe	171,985	181,016	138,117
Americas	95,854	125,538	131,754
Total net sales	<u>\$ 1,229,215</u>	<u>\$ 1,249,130</u>	<u>\$ 1,213,989</u>

Net Sales by Type	2020			2019			2018		
	2020	2019	2018	2020	2019	2018	2020	2019	2018
Direct sales	\$ 419,024	\$ 407,851	\$ 346,997	\$ 419,024	\$ 407,851	\$ 346,997	\$ 419,024	\$ 407,851	\$ 346,997
Distributor sales	810,191	841,279	866,992	810,191	841,279	866,992	810,191	841,279	866,992
Total net sales	<u>\$ 1,229,215</u>	<u>\$ 1,249,130</u>	<u>\$ 1,213,989</u>	<u>\$ 1,229,215</u>	<u>\$ 1,249,130</u>	<u>\$ 1,213,989</u>	<u>\$ 1,229,215</u>	<u>\$ 1,249,130</u>	<u>\$ 1,213,989</u>

Many of our customers are based in Asia or have manufacturing facilities in Asia. Net sales from products shipped to China for the twelve months ended December 31, 2020, 2019 and 2018, was \$649.9 million \$633.8 million and \$662.6 million, respectively.

SALES AND MARKETING

We market and sell our products worldwide through a combination of direct sales and marketing personnel, independent sales representatives and distributors. We have direct sales personnel in the U.S., the U.K., France, Germany, Korea, Hong Kong, Taiwan and China. We also have independent sales representatives in the U.S., Asia, and Europe. In addition, we have distributors in the U.S., Asia, and Europe. As of December 31, 2020, our direct global sales and marketing organization consisted of approximately 452 employees operating out of 19 offices. We have sales and marketing offices or representatives in Taipei, Taiwan; Shanghai, Shenzhen, Wuhan, Guangzhou, Jinan, Qingdao, China; Gyeonggi, South Korea; Munich, Frankfurt, Germany; Oldham, U.K.; Tokyo, Japan; and Plano, Texas, USA. As of December 31, 2020, we also had approximately 18 independent sales representative firms marketing our products.

Our marketing group focuses on our product strategy, product development roadmap, new product introduction process, demand assessment and competitive analysis. Our marketing programs include participation in industry tradeshows, technical conferences and technology seminars, sales training and public relations. Our marketing group works closely with our sales and research and development teams to align our product development roadmap. Our marketing group coordinates its efforts with our product development, operations and sales groups, as well as with our customers, sales representatives and distributors. We support our customers through our global field application engineering and customer support organizations.

Our website, www.diodes.com, features an extensive online product catalog with advanced search capabilities. This, coupled with a comprehensive competitor cross-reference search, facilitates quick and thorough product selection. Our website also provides

easy access to our worldwide sales contacts and customer support and incorporates a distributor-inventory check to provide component inventory availability.

MANUFACTURING OPERATIONS AND FACILITIES

Historically we have operated two assembly and test facilities located in Shanghai, China, two in Chengdu, China and one in Neuhaus, Germany. We have two wafer fabrication facilities located in Shanghai, one 150mm and another capable of both 150mm and 200mm, a 150mm wafer fabrication facility located in Oldham, U.K. and GFAB, a 150mm and 200mm capable wafer fabrication facility located in Greenock, Scotland that we acquired in 2019. With the acquisition of LSC in 2020 we added four wafer fabrication facilities, two in Taiwan and two in China, and three assembly facilities, two in China and one in Taiwan.

In 2010, we entered into an agreement with the Management Committee of the Chengdu Hi-Tech Industrial Development Zone (the “CDHT”). In connection with the agreement with CDHT, we formed a joint venture entity with a Chinese company, Chengdu Ya Guang Electronic Company Limited (“Ya Guang”), to establish a semiconductor assembly and test manufacturing facility in Chengdu, China. We currently own approximately 98% of the equity of the joint venture entity. The CDHT granted the joint venture entity a 50-year land lease, provides corporate and employee tax incentives, tax refunds, subsidies and other financial support. We believe this arrangement will be a long-term, multi-year project that will provide us additional capacity as needed. As of December 31, 2020, we have invested in this joint venture approximately \$193.7 million, primarily for infrastructure, buildings and equipment-related capital expenditures. For the years ending December 31, 2020 and 2019, our total capital expenditures were approximately \$75.8 million and \$96.2 million, respectively. The majority of our capital expenditures are in China.

Our manufacturing processes use many raw materials, including silicon wafers, aluminum and copper lead frames, gold and copper wire and other metals, molding compounds and various chemicals and gases. We also rely on equipment and finished product suppliers. We are continuously evaluating our raw material costs in order to reduce our consumption while protecting and maintaining product performance. We have no material agreements with any of our suppliers that impose minimum or continuing supply obligations. From time to time, suppliers may extend lead-times, limit supplies or increase prices due to capacity constraints or other factors. Although we believe that supplies of the raw materials we use are currently and will continue to be available, shortages could occur in various essential materials due to interruption of supply or increased demand in the industry. See “Risk Factors – *We depend on third-party suppliers for timely deliveries of raw materials, manufacturing services, product and process development, parts and equipment, as well as finished products from other manufacturers, and our reputation with customers, operating results and financial condition could be adversely affected if we are unable to obtain adequate supplies in a timely manner.*” in Part I, Item 1A of this Annual Report for additional information.

Our corporate headquarters is located in a facility we own in Plano, Texas. We also lease or own properties around the world for use as sales and administrative offices, research and development centers, manufacturing facilities, warehouses and logistics centers. The size or location of these properties can change from time to time based on our business requirements. See “Properties” in Part I, Item 2 of this Annual Report for additional information.

BACKLOG

The amount of backlog to be shipped during any period is dependent upon various factors, and orders are subject to cancellation or modification, usually with no penalty to the customer. Orders are generally booked from one month to greater than twelve months in advance of delivery. The rate of booking of new orders can vary significantly from month to month. We, and the industry as a whole, continue to experience a trend towards shorter customer-requested lead-times, and we expect this trend to continue. The amount of backlog at any date depends upon various factors, including the timing of the receipt of orders, fluctuations in orders of existing product lines, and the introduction of new product lines. Accordingly, we believe that the amount of our backlog at any date is not an accurate measure of our future sales. We strive to maintain proper inventory levels to support our customers’ just-in-time order expectations. Our backlog of orders, based on expected ship date, was \$618.3 million at December 31, 2020 and \$278.7 million at December 31, 2019.

PATENTS, TRADEMARKS, COPYRIGHTS AND OTHER INTELLECTUAL PROPERTY RIGHTS AND LICENSES

We generally rely on a combination of patents, trademarks, copyrights, trade secrets, confidentiality agreements, license agreements and policies to protect our intellectual property rights and proprietary technology, and to maintain our competitive position. Despite these measures, we may not always succeed in protecting our intellectual property or preventing misappropriation of our intellectual property rights. Other companies may independently develop similar technologies or seek to challenge, invalidate or circumvent our intellectual property rights. We acquired or licensed or sublicensed to numerous intellectual property rights in connection with our acquisitions over the years. We have registered several of our trademarks in the U.S. and other countries, and seek to strengthen our brand to distinguish our products in the marketplace. We maintain a patent portfolio comprised of both U.S. and foreign patents and have patent applications pending in the U.S. and other countries. We expect to continue to file patent applications in the U.S. and abroad covering technologies and products considered to be important to our business. We do not believe any individual patent, group of patents, or the expiration thereof would materially affect the operation of our business. For

proprietary technology or related know-how that is not covered by our patent strategy, we seek to protect them as trade secrets through contracts and policies to maintain their secrecy and confidentiality.

In the ordinary course of business, we may become party to disputes involving intellectual property rights. When we become aware of companies infringing our intellectual property rights, we seek to enforce our rights through appropriate actions. We may receive claims of infringement or inquiries regarding possible infringement of the intellectual property rights of others, demands seeking royalty payments or other remedies, or cease and desist letters. Depending on the situations, we may defend our position, seek to negotiate a license or engage in other acceptable resolution that is appropriate to our business.

We provide limited intellectual property indemnification for certain customers and may experience financial exposure related to intellectual property indemnity claims. In certain situations, there are limits on our potential indemnification liability; however, we cannot reasonably estimate the amount of potential payments, if any. Although to date we have not paid any significant amounts for intellectual property indemnity claims, there can be no assurance that we will not face significant exposure in the future.

From time to time, we may license our intellectual property rights in connection with the development or sale of our products. We may license certain product technology from other companies, but we do not consider any particular licensed technology to be material to our operations or royalties paid by us to be material. We believe the duration and other terms of the licenses are appropriate for our current needs. See “Risk Factors – We may be subject to claims of infringement of third-party intellectual property rights or demands that we license third-party technology, which could result in significant expense, reduction in our intellectual property rights and a negative impact on our business, operating results and financial condition.” in Part I, Item 1A of this Annual Report for additional information.

Our foreign operations expose us to unique intellectual property technology risks compared to a company with fewer or no international operations. For example, we are exposed to potential cyber security breaches that may target our employees or infrastructure outside the United States. See “Risk Factors – Risks Related to Our International Operations” in Part I, Item 1A of this Annual Report for a more detailed summary of the intellectual property technology risks associated with our international business operations.

This Annual Report may include trade names and trademarks of other companies. Our use or display of other parties’ trade names, trademarks or products is not intended to, and does not imply a relationship with, or endorsement or sponsorship of us by, the trade names or trademark owners. All trademarks appearing in this Annual Report not owned by us are the property of their holders.

COMPETITION

Numerous semiconductor manufacturers and distributors serve the discrete, logic and analog semiconductor components market, making competition intense. Some of our larger competitors include Infineon Technologies A.G., ON Semiconductor Corporation, Vishay Intertechnology, Inc, Renesas Electronics Corporation, Texas Instruments, and Nexperia, formerly the Standard Products business of NXP Semiconductors N.V., many of which have greater financial, marketing, distribution, brand name recognition, research and development, manufacturing and other resources than we do. Accordingly, we, from time to time, may reposition product lines or decrease prices, which may affect our sales of, and profit margins on, such product lines. The price, features, availability and quality of our products, and our ability to design products and deliver customer service in keeping with our customers’ needs, determine the competitiveness of our products. We believe that our product focus, packaging expertise and our flexibility and ability to quickly adapt to customer needs affords us competitive advantages. See “Risk Factors – The semiconductor business is highly competitive, and increased competition may harm our business, operating results and financial condition.” in Part I, Item 1A of this Annual Report for additional information.

ENGINEERING AND RESEARCH AND DEVELOPMENT

Our engineering and research and development groups consist of applications, circuit design, and product development engineers who assist in determining the direction of our future product lines. One of their key functions is to work closely with market-leading customers to further refine, expand and improve our product portfolio within our target product types and packages. In addition, customer requirements and acceptance of new package types are assessed and new, higher-density and more energy-efficient packages are developed to satisfy customers’ needs.

Product development engineers work directly with our semiconductor circuit design and layout engineers to develop and design products that match our customers’ requirements. We have the capability to capture the customers’ electrical and packaging requirements and translate those requirements into product specifications which can then be designed and manufactured to support customers’ end-system applications.

HUMAN CAPITAL MANAGEMENT

As an international semiconductor company with a global footprint, Diodes recognizes the important role its human capital plays in a talent-based economy, and what the impact of effective and efficient human capital management has on its long-term strategic success and sustainable growth. Our employees are our most critical asset—they contribute to our financial success for the benefit of all our stakeholders, they are the source of great idea generation that fuels the engine of product innovation, and they are collaborators

and contributors to the success of the communities in which we live and work. Human capital management affects many aspects of our operations, including recruitment and talent acquisition, retention, training, workforce optimization, performance management, workplace safety, employee health and wellness, employee engagement, and diversity and inclusion.

Employee Communication - Developing two-way communications and deploying effective feedback mechanisms are critical components in our employee engagement process. We have an open door policy, and encourage employees to have regular conversations with their managers to share feedback and express concerns. We also solicit employee feedback informally through regular employee interactions. We hold our managers accountable for setting clear expectations and goals with their teams, for providing coaching, as well as identifying professional development opportunities for their teams, and for engaging in periodic performance reviews. We assist our managers with performance management tools as needed to help them effectively manage their teams and optimize workforce productivity.

Employee Retention, Training and Coaching - Employee retention is a critical element in our sustainable success. To maintain a stable workforce, we provide skill advancement training and coaching, where appropriate, to help our employees enhance their existing skillsets. With our support and preparation, our employees can continue to grow in their current role and maximize the value they contribute to their current teams. Where a suitable rotation opportunity arises, we provide skill expansion training to equip employees for these new positions. By honing their skills, our employees can leverage their institutional knowledge and experience to contribute to the overall success of the organization. The availability of rotational opportunities can also help keep our employees motivated and engaged.

Employee Safety - As an employer with a global workforce, we seek to provide safe working conditions and encourage our employees to engage in safe behaviors while completing their assigned job duties. We have programs to enhance the occupational health and safety of our employees and to promote employee wellness. These initiatives are designed yield positive business outcomes, such as less absenteeism, more motivated and engaged workforce, higher productivity, more consistent quality performance, and a better corporate image in our local communities—which in turn should help us attract talent and maintain a stable workforce.

Employee Demographics - We regularly review our workforce demographics and organizational structure to ensure that we have an efficient organization positioned to deliver cost-effective, high quality products to our customers and to serve the markets in which we operate. Diversity and inclusion considerations are embodied in many aspects of our operations, including pipeline opportunities.

As of December 31, 2020, we employed 8,939 employees (including approximately 633 temporary labor or independent contractors). 7,915 of our employees were in Asia, 224 were in the U.S. and 800 were in Europe. The increase in our employee numbers during calendar year 2020 reflects, among other factors, the LSC acquisition in November 2020. None of our employees in Asia or the U.S. are subject to a collective bargaining agreement and in Europe all our employees are covered by individual employment agreements with some collective bargaining agreements in place. We consider our relations with our employees to be satisfactory. See “Risk Factors – *We may fail to attract or retain the qualified technical, sales, marketing, finance and management/executive personnel required to operate our business successfully, which could adversely affect our business, operating results and financial condition.*” in Part I, Item 1A of this Annual Report for additional information.

ENVIRONMENTAL MATTERS

We are subject to a variety of U.S. federal, state, local and foreign governmental laws, rules and regulations related to the use, storage, handling, discharge or disposal of certain toxic, volatile or otherwise hazardous chemicals used in our manufacturing process in China and the U.K. where our wafer fabrication facilities are located, and in China, Taiwan and Germany where our assembly and test facilities are located. Any of these regulations could require us to acquire equipment or to incur substantial other costs to comply with environmental regulations or remediate problems. For the years ended December 31, 2020, 2019 and 2018, our capital expenditures for environmental controls have not been material. See “Risk Factors – *We are subject to many environmental laws and regulations that could result in significant expenses and could adversely affect our business, operating results and financial condition.*” in Part I, Item 1A of this Annual Report for additional information.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

We conduct business with one related company, Nuvoton Technology Corporation and its subsidiaries and affiliates (collectively, “Nuvoton”). LSC was a related company until we acquired it in November 2020. We conduct business with Keylink International (B.V.I.) Inc. and its subsidiaries and affiliates (collectively, “Keylink”). Keylink is our 5% joint venture partner in our two Shanghai assembly and test facilities. In addition, Ya Guang is our 2% joint venture partner in one of our Chengdu assembly and test facilities and our 5% joint venture partner in our other Chengdu assembly and test facility; however, we have no material transactions with Ya Guang, other than the joint venture.

Raymond Soong, the former Chairman of the Board of Directors of Diodes, was the Chairman of LSC, and was the Chairman of Lite-On Technology Corporation (“LTC”), which was a significant shareholder of LSC. C.H. Chen, our former President and Chief Executive Officer and currently the Vice Chairman of the Board of Directors, was also Vice Chairman of LSC and a board member of LTC. Dr. Keh-Shew Lu, our current Chairman of the Board of Directors, President and Chief Executive Officer, is a board member of

LTC, and a board member of Nuvoton. We consider our relationships Nuvoton to be mutually beneficial and we plan to continue our strategic alliance with Nuvoton. We purchase wafers from Nuvoton for use in our production process. We also conduct business with Nuvoton Technology Corporation and its subsidiaries and affiliates (collectively, "Nuvoton"). Dr. Keh-Shew Lu, our Chairman, President and Chief Executive Officer, is a board member of Nuvoton. We considered our relationship with Nuvoton to be mutually beneficial and we plan to continue our strategic alliance Nuvoton. We purchase wafers from Nuvoton for use in our production process.

The Audit Committee of our Board of Directors reviews all related party transactions for potential conflict of interest situations on an ongoing basis. We believe that all related party transactions are on terms no less favorable to us than would be obtained from unaffiliated third parties.

OTHER INFORMATION

We were incorporated in 1959 in California and reincorporated in Delaware in 1968.

SEASONALITY

Historically, our net sales have been affected by the cyclical nature of the semiconductor industry, whereby typically the fourth quarter is the quarter of the calendar year with the smallest revenue. In addition, our net sales have been subject to some seasonal variation with weaker net sales in the first and fourth calendar quarters. See Note 20 (unaudited) of "Notes to Consolidated Financial Statements" of this Annual Report for additional information on our quarterly results.

AVAILABLE INFORMATION

Our website address is <http://www.diodes.com>. We make available, free of charge through our website, our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, proxy statements, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after such material is electronically filed with or furnished to the Securities and Exchange Commission (the "SEC").

The SEC maintains an Internet site (<http://www.sec.gov>) that contains reports, proxy and information statements, and other information regarding issuers that file with the SEC.

Our website also provides investors access to financial and corporate governance information including our corporate governance guidelines, Code of Business Conduct, whistleblower hotline, and press releases. The contents of our website and any other information accessible through our website are not incorporated by reference into this Annual Report on Form 10-K.

Cautionary Statement for Purposes of the "Safe Harbor" Provision of the Private Securities Litigation Reform Act of 1995

Many of the statements, included in this Annual Report on Form 10-K, contain forward-looking statements and forward-looking information relating to our company. We generally identify forward-looking statements by the use of terminology such as "may," "will," "could," "should," "potential," "continue," "expect," "intend," "plan," "estimate," "anticipate," "believe," "project," or similar phrases or the negatives of such terms. We base these statements on our management's beliefs as well as assumptions we made using information currently available to us. Such statements are subject to risks, uncertainties and assumptions, including those identified in the "Risk Factors" section of this Annual Report and the "Risk Factors" section of other documents we file with the SEC, as well as other matters not yet known to us or not currently considered material by us. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may vary materially from those anticipated, estimated or projected. Given these risks and uncertainties, prospective investors are cautioned not to place undue reliance on such forward-looking statements. Forward-looking statements do not guarantee future performance and should not be considered as statements of fact.

You should not unduly rely on these forward-looking statements, which speak only as of the date of this Annual Report on Form 10-K. Unless required by law, we undertake no obligation to publicly update or revise any forward-looking statements to reflect new information or future events or otherwise. The Private Securities Litigation Reform Act of 1995 (the "Act") provides certain "safe harbor" provisions for forward-looking statements. All forward-looking statements, made on this Annual Report on Form 10-K, are made pursuant to the Act.

Item 1A. Risk Factors.

Investing in our Common Stock involves a high degree of risk. You should carefully consider the following risks and other information in this Annual Report before you make any trading decisions regarding our Common Stock. Our business, financial condition or operating results may suffer if any of the following risks are realized. Additional risks and uncertainties not currently known to us may also adversely affect our business, financial condition or operating results. If any of these risks or uncertainties occurs, the trading price of our Common Stock could decline and you could lose part or all of your investment.

Summary

RISKS RELATED TO OUR BUSINESS

The ultimate impact of the COVID-19 pandemic outbreak cannot be estimated at this time, but it may have a material adverse effect on our business, financial condition and results of operations.

During times of difficult market conditions, our fixed costs combined with lower net sales and lower profit margins may have a negative impact on our business, operating results and financial condition.

Downturns in the highly cyclical semiconductor industry or changes in end-market demand could adversely affect our operating results and financial condition.

The semiconductor business is highly competitive, and increased competition may harm our business, operating results and financial condition.

Delays in initiation of production at facilities due to implementing new production techniques or resolving problems associated with technical equipment malfunctions could adversely affect our manufacturing efficiencies, operating results and financial condition.

We are and will continue to be under continuous pressure from our customers and competitors to reduce the price of our products, which could adversely affect our growth and profit margins.

Our customers require our products to undergo a lengthy and expensive qualification process without any assurance of product sales and may demand to audit our operations from time to time. A failure to qualify a product or a negative audit finding could adversely affect our net sales, operating results and financial condition.

Production at our manufacturing facilities could be disrupted for a variety of reasons, including natural disasters and other extraordinary events, which could prevent us from producing enough of our products to maintain our sales and satisfy our customers' demands and could adversely affect our operating results and financial condition.

New technologies could result in the development of new products by our competitors and a decrease in demand for our products, and we may not be able to develop new products to satisfy changes in demand, which would adversely affect our net sales, market share, operating results and financial condition.

We may be subject to claims of infringement of third-party intellectual property rights or demands that we license third-party technology, which could result in significant expense, reduction in our intellectual property rights and a negative impact on our business, operating results and financial condition.

We depend on third-party suppliers for timely deliveries of raw materials, manufacturing services, product and process development, parts and equipment, as well as finished products from other manufacturers, and our reputation with customers, operating results and financial condition could be adversely affected if we are unable to obtain adequate supplies in a timely manner.

If we do not succeed in continuing to vertically integrate our business, we will not realize the cost and other efficiencies we anticipate, which could adversely affect our ability to compete, our operating results and financial condition.

Part of our growth strategy involves identifying and acquiring companies. We may be unable to identify suitable acquisition candidates or consummate desired acquisitions and, if we do make any acquisitions, we may be unable to successfully integrate any acquired companies with our operations, which could adversely affect our business, operating results and financial condition.

We are subject to litigation risks, including securities class action litigation and intellectual property litigation, which may be costly to defend and the outcome of which is uncertain and could adversely affect our business and financial condition.

We are subject to many environmental laws and regulations that could result in significant expenses and could adversely affect our business, operating results and financial condition.

We may incur additional costs and face emerging risks associated environmental, social and governance ("ESG") factors impacting our operations.

Our products, or products we purchase from third parties for resale, may be found to be defective and, as a result, warranty claims and product liability claims may be asserted against us and we may not have recourse against our suppliers, which may harm our business, reputation with our customers, operating results and financial condition.

We may fail to attract or retain the qualified technical, sales, marketing, finance and management/executive personnel required to operate our business successfully, which could adversely affect our business, operating results and financial condition.

We may not be able to achieve future growth, and any such growth may place a strain on our management and on our systems and resources, which could adversely affect our business, operating results and financial condition.

Obsolete inventories as a result of changes in demand for our products and change in life cycles of our products could adversely affect our business, operating results and financial condition.

If our direct sales customers or our distributors' customers do not design our products into their applications, our net sales may be adversely affected.

We are subject to interest rate risk that could have an adverse effect on our cost of working capital and interest expenses, which could adversely affect our business, operating results and financial condition.

Our hedging strategies may not be successful in mitigating our risks associated with interest rates or foreign exchange exposure or our counterparties might not perform as agreed.

We may have a significant amount of debt with various financial institutions worldwide. Any indebtedness could adversely affect our business, operating results, financial condition and our ability to meet payment obligations under such debt.

Restrictions in our credit facilities may limit our business and financial activities, including our ability to obtain additional capital in the future.

Our business benefits from certain Chinese government incentives. Expiration of, or changes to, these incentives could adversely affect our operating results and financial condition.

We operate a global business through numerous foreign subsidiaries, and there is a risk that tax authorities will challenge our transfer pricing methodologies or legal entity structures, which could adversely affect our operating results and financial condition.

The value of our benefit plan assets and liabilities is based on estimates and assumptions, which may prove inaccurate and the actual amount of expenses recorded in the consolidated financial statements could differ materially from the assumptions used.

Changes in actuarial assumptions for our defined benefit plan could increase the volatility of the plan's asset value, require us to increase cash contributions to the plan and have a negative impact on our cash flows, operating results and financial condition.

Certain of our customers and suppliers require us to comply with their codes of conduct, which may include certain restrictions that may substantially increase our cost of doing business as well as have an adverse effect on our operating efficiencies, operating results and financial condition.

Compliance with government regulations and customer demands regarding the use of "conflict minerals" may result in increased costs and may have a negative impact on our business, operating results and financial condition.

There are risks associated with previous and future acquisitions. We may ultimately not be successful in overcoming these risks or any other problems encountered in connection with acquisitions.

If we fail to maintain an effective system of internal controls or discover material weaknesses in our internal control over financial reporting, we may not be able to report our financial results accurately or detect fraud, which could harm our business and the trading price of our Common Stock.

RISKS RELATED TO OUR INTERNATIONAL OPERATIONS

Our international operations subject us to risks that could adversely affect our operations.

We have significant operations and assets in China, the U.K., Germany, Hong Kong and Taiwan and, as a result, will be subject to risks inherent in doing business in those jurisdictions, which may adversely affect our financial performance and operating results.

Significant uncertainties related to changes in governmental policies and participation in international trading partnerships or economic unions currently exist, and, depending upon how such uncertainties are resolved, the changes could have a material adverse effect on us.

Tariffs or other restrictions imposed by the United States Trade Representative may affect our operations in the U.S., may disrupt our activities in the U.S., may have an adverse impact on our profitability and results of operations and may encourage the independent development in China of products and electronic components that will compete with ours or displace our products and components, resulting in an adverse impact on our Chinese business.

The U.K.'s exit from the European Union ("E.U.") will continue to have uncertain effects and could adversely impact our business, results of operations and financial condition.

A slowdown in the Chinese economy could limit the growth in demand for electronic devices containing our products, which would have a material adverse effect on our business, operating results and prospects.

Economic regulation in China could materially and adversely affect our business, operating results and prospects.

We could be adversely affected by violations of the United States' Foreign Corrupt Practices Act, the U.K.'s Bribery Act 2010, China's anti-corruption campaign and similar worldwide anti-bribery laws.

We are subject to foreign currency risk as a result of our international operations.

China is experiencing rapid social, political and economic change, which has increased labor costs and other related costs that could make doing business in China less advantageous than in prior years. Increased labor costs in China could adversely affect our business, operating results and financial condition.

We may not continue to receive preferential tax treatment in Asia, thereby increasing our income tax expense and reducing our net income.

The distribution of any earnings of certain foreign subsidiaries may be subject to foreign income taxes, thus reducing our net income.

We could be adversely affected by the compromise or theft of our technology, know-how, data or intellectual property or a requirement that we yield rights in technology, know-how, data stored in foreign jurisdictions or intellectual property that we use in such foreign jurisdictions.

RISKS RELATED TO OUR COMMON STOCK

Variations in our quarterly operating results may cause our stock price to be volatile.

We may enter into future acquisitions and take certain actions in connection with such acquisitions that could adversely affect the price of our Common Stock.

Our directors, executive officers and significant stockholders hold a substantial portion of our Common Stock, which may lead to conflicts with other stockholders over corporate transactions and other corporate matters.

We were formed in 1959, and our early corporate records are incomplete. As a result, we may have difficulty in assessing and defending against claims relating to rights to our Common Stock purporting to arise during periods for which our records are incomplete.

Non-cash tender offers, debt equity swaps or equity exchanges to consummate our business activities are likely to have the effect of diluting the ownership interest of existing stockholders, including qualified stockholders who receive shares of our Common Stock in such business activities.

Anti-takeover effects of certain provisions of Delaware law and our Certificate of Incorporation and Bylaws, may hinder a take-over attempt.

Section 203 of Delaware General Corporation Law may deter a take-over attempt.

Certificate of Incorporation and Bylaw Provisions may deter a take-over attempt.

GENERAL RISK FACTORS

The success of our business depends on the strength of the global economy and the stability of the financial markets, and any weaknesses in these areas may have a material adverse effect on our net sales, operating results and financial condition.

Production at our manufacturing facilities could be disrupted for a variety of reasons, including natural disasters and other extraordinary events, which could prevent us from producing enough of our products to maintain our sales and satisfy our customers' demands and could adversely affect our operating results and financial condition.

We may be adversely affected by any disruption in our information technology systems, which could adversely affect our cash flows, operating results and financial condition.

Terrorist attacks, or threats or occurrences of other terrorist activities, whether in the U.S. or internationally, may affect the markets in which our Common Stock trades, the markets in which we operate and our operating results and financial condition.

System security risks, data protection breaches, cyber-attacks and other related cybersecurity issues could disrupt our internal operations, and any such disruption could reduce our expected net sales, increase our expenses, damage our reputation and adversely affect our stock price.

RISKS RELATED TO OUR BUSINESS

The ultimate impact of the COVID-19 pandemic outbreak cannot be estimated at this time, but it may have a material adverse effect on our business, financial condition and results of operations.

In March 2020, the World Health Organization categorized COVID-19 as a pandemic, and the President of the United States declared the COVID-19 outbreak a national emergency. COVID-19 continues to spread throughout the United States and other countries across the world (including countries where we maintain operations), and the duration, severity of its effects and ultimate impact to the world's population and financial impact are currently unknown. National, state and local governments have responded to the COVID-19 pandemic in a variety of ways including, without limitation, by declaring states of emergency, restricting people from gathering in groups or interacting within a certain physical distance (i.e., social distancing), ordering businesses to close or limit operations and ordering people to stay at home (i.e., shelter in place), and imposing travel restrictions (including quarantine requirements).

Given these governmental actions, there is no assurance that we will be permitted to operate under every current or future government order or other restriction and in every location where we maintain operations and may be required to limit our operations at, or close, certain locations in the future. Any such long-term limitations or closures would have a material adverse impact on our ability to service our customers and on our business, financial condition and results of operations. In particular, any long-term limitations on, or long-term closures of, our manufacturing facilities in Asia or Europe would have a negative adverse impact on our ability to manufacture, sell and ship products and service customers and would have a material adverse impact on our business, financial condition and results of operations. In the first quarter of 2020, following the extended Chinese New Year, we delayed the start of our manufacturing production in China and at the end of the first quarter of 2020 we temporarily closed our wafer fabrication facilities located in the United Kingdom. As of the date of this report, our operations in China and the United Kingdom have both resumed full production. However, we can provide no assurances that those facilities or any of our other facilities may not suffer similar closures or disruptions in the future.

While the Company has already experienced negative impacts from the COVID-19 pandemic to its results of operations, cash flows and financial condition, in light of the current level of uncertainty over the economic and operational impacts of COVID-19 we cannot reasonably estimate the total impact that COVID-19 will have on our results of operations, cash flows or financial condition at this time. Risks and complications in the Company's business from COVID-19 include, but are not limited to, changes in ordering patterns and demand for our products and losses in efficiency due to travel limitations and regulations compelling employees to work from home. While the Company has not experienced a material increase in technology spending, if employees are forced to continue working remotely it could become necessary to increase information technology spending. Although the Company has not experienced a significant business disruption due to teleworking arrangements, the imposition of increased self-isolation protocols could negatively impact the ability of employees to travel to the Company's production facilities and possibly create ongoing business disruptions. The limitations could negatively affect the Company's ability to produce, sell and transport its products. The Company's consolidated financial statements presented herein reflect estimates and assumptions made by management that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and reported amounts of net sales and expenses during the reporting periods presented. Such estimates and assumptions affect, among other things, the Company's goodwill, long-lived asset valuation and indefinite-lived intangible asset valuation; inventory valuation;

equity investment valuation; assessment of the annual effective tax rate; valuation of deferred income taxes and income tax contingencies; the allowance for doubtful accounts; measurement of compensation cost for certain share-based awards and cash bonus plans; and pension plan assumptions. In addition, depending on the extent and duration of the COVID-19 pandemic, healthcare insurance premiums could increase, increasing our healthcare costs.

In addition, the COVID-19 pandemic may cause disruptions, and in some cases severe disruptions, to the business and operations of our suppliers and customers as a result of quarantines, worker absenteeism as a result of illness or other factors, social distancing measures and other travel, health-related, business or other restrictions. Certain of our customers and suppliers may in the future be required to close down or operate at a lower capacity, which would adversely impact our business, financial condition and results of operations. Because of the rapid onset of the COVID-19 pandemic, some of our customers could experience financial difficulties resulting in such customers being unable to pay for products they ordered from us before the COVID-19 pandemic emerged. There can be no assurance that any decrease in sales resulting from the COVID-19 pandemic will be offset by increased sales in the future.

During times of difficult market conditions, our fixed costs combined with lower net sales and lower profit margins may have a negative impact on our business, operating results and financial condition.

The semiconductor industry is characterized by high fixed costs. Notwithstanding our utilization of third-party manufacturing capacity, most of our production requirements are met by our own manufacturing facilities. In difficult economic environments, we could be faced with a decline in the utilization rates of our manufacturing facilities due to decreases in product demand. During such periods, our manufacturing facilities do not operate at full capacity and the costs associated with this excess capacity are expensed immediately and not capitalized into inventory. When our utilization rates decline to abnormally low production levels, we generally experience lower gross margins. The market conditions in the future may adversely affect our utilization rates and consequently our future gross margins, and this, in turn, could have a material negative impact on our business, operating results and financial condition.

Downturns in the highly cyclical semiconductor industry or changes in end-market demand could adversely affect our operating results and financial condition.

The semiconductor industry is highly cyclical, and periodically experiences significant economic downturns characterized by diminished product demand, production overcapacity and excess inventory, which can result in rapid erosion in average selling prices. From time to time, the semiconductor industry experiences order cancellations and reduced demand for products, resulting in significant net sales declines, due to excess inventories at end-equipment manufacturers and general economic conditions, especially in the technology sector. The market for semiconductors may experience renewed, and possibly more severe and prolonged downturns, which may harm our operating results and financial condition.

In addition, we operate in a few narrow markets of the broader semiconductor market and, as a result, cyclical fluctuations may affect these segments to a greater extent than they affect the broader semiconductor market. This may cause us to experience greater fluctuations in our operating results and financial condition than compared to some of our broad line semiconductor competitors. In addition, we may experience significant changes in our profitability as a result of variations in sales, changes in product mix, changes in end-user markets and the costs associated with the introduction of new products. The markets for our products depend on continued demand in the consumer electronics, computing, communications, industrial and automotive sectors. These end-user markets also tend to be cyclical and may also experience changes in demand that could adversely affect our operating results and financial condition.

The semiconductor business is highly competitive, and increased competition may harm our business, operating results and financial condition.

The semiconductor industry in which we operate is highly competitive. We expect intensified competition from existing competitors and new entrants. Competition is based on price, product performance, product availability, quality, reliability, technological innovation and customer service. We compete in various markets with companies of various sizes, many of which are larger and have greater resources or capabilities as it relates to financial, marketing, distribution, brand name recognition, research and development, manufacturing and other resources than we have. As a result, they may be better able to develop new products, market their products, pursue acquisition candidates and withstand adverse economic or market conditions. Most of our current major competitors are broad line semiconductor manufacturers who often have a wider range of product types and technologies than we do. In addition, companies not currently in direct competition with us may introduce competing products in the future. Some of our current major competitors are Infineon Technologies A.G., Nexperia, formerly the Standard Products business of NXP Semiconductors N.V., ON Semiconductor Corporation, Rohm Electronics USA, LLC, Toshiba Corporation and Vishay Intertechnology, Inc. We may not be able to compete successfully in the future, and competitive pressures may harm our business, operating results and financial condition.

Delays in initiation of production at facilities due to implementing new production techniques or resolving problems associated with technical equipment malfunctions could adversely affect our manufacturing efficiencies, operating results and financial condition.

Our manufacturing efficiency has been and will be an important factor in our future profitability, and we may not be able to maintain or increase our manufacturing efficiency. Our manufacturing and testing processes are complex, require advanced and costly equipment and are continually being modified in our efforts to improve product performance and cost. Difficulties in the manufacturing process can lower yields. Technical or other problems could lead to production delays, order cancellations and lost net sales. In addition, any problems in achieving acceptable yields, construction delays, or other problems in upgrading or expanding existing facilities, building new facilities, bringing new manufacturing capacity to full production or changing our process technologies, could also result in capacity constraints, production delays and a loss of future net sales and customers. Our operating results also could be adversely affected by any increase in fixed costs and operating expenses related to increases in production capacity if net sales do not increase proportionately, or in the event of a decline in demand for our products. Any disruption at any of our wafer fabrication facilities or assembly and test facilities could have a material adverse effect on our manufacturing efficiencies, operating results and financial condition.

We are and will continue to be under continuous pressure from our customers and competitors to reduce the price of our products, which could adversely affect our growth and profit margins.

Prices for our products tend to decrease over their life cycle. There is substantial and continuing pressure from customers to reduce the total cost of purchasing our products. To remain competitive and retain our customers and gain new ones, we must continue to reduce our costs through design, product and manufacturing improvements. We must also strive to minimize our customers' shipping and inventory financing costs and to meet their other goals for rationalization of supply and production. Our net sales growth and profit margins will suffer if we cannot effectively continue to reduce our costs and keep our product prices competitive.

Our customers require our products to undergo a lengthy and expensive qualification process without any assurance of product sales and may demand to audit our operations from time to time. A failure to qualify a product or a negative audit finding could adversely affect our net sales, operating results and financial condition.

Prior to purchasing our products, our customers may require our products to undergo an extensive qualification process, which involves rigorous reliability testing. This qualification process may continue for six months or longer. However, qualification of a product by a customer does not ensure any sales of the product to that customer. In addition, we are focusing more on the automotive and industrial markets. These markets, automotive in particular, require higher quality standards. Although we are working to ensure our organization and products meet the more rigorous quality standards, there can be no assurances we will succeed. Even after successful qualification and sales of a product to a customer, a subsequent revision to the product, changes in the product's manufacturing process or the selection of a new supplier by us may require a requalification process, which may result in delayed net sales, foregone sales and excess or obsolete inventory. After our products are qualified, it can take an additional six months or more before the customer commences volume production of components or devices that incorporate our products. Despite these uncertainties, we devote substantial resources, including design, engineering, sales, marketing and management efforts, toward qualifying our products with customers in anticipation of sales. If we are unsuccessful or delayed in qualifying any of our products with a customer, such failure or delay would preclude or delay sales of such product to the customer, which may adversely affect our net sales, operating results and financial condition.

In addition, from time to time, our customers may demand an audit of our records, product manufacturing, qualification, and packaging processes, business practices and other related items to verify that we have complied with our business obligations, standard processes and procedures, product specifications and certain governing laws and regulations related to our business practices, and in accordance with the agreed terms and conditions of mutual business agreements. If the audit shows any deficiency in any of these categories, our customers may require us to implement extensive protocols to remedy the deficiency, assess us significant penalties, refuse shipments of our products, return existing inventory, cancel orders, or terminate our business relationship, each of which will adversely affect our net sales, operating results and financial condition.

Our customer orders are subject to cancellation or modification usually with no penalty. High volumes of order cancellation or reduction in quantities ordered could adversely affect our net sales, operating results and financial condition.

All of our customer orders are subject to cancellation or modification, usually with no penalty to the customer. Orders are generally made on a purchase order basis, rather than pursuant to long-term supply contracts, and are booked from immediate delivery to twelve months or more in advance of delivery. The rate of booking new orders can vary significantly from month to month. We, and the semiconductor industry as a whole, are experiencing a trend towards shorter customer-requested lead times, which is the amount of time between the date a customer places an order and the date the customer requires shipment. Furthermore, our industry is subject to rapid changes in customer outlook and periods of excess inventory due to changes in demand in the end-markets our industry serves. As a result, many of our purchase orders are revised, and may be cancelled, with little or no penalty and with little or no notice. However, we must still commit production and other resources to fulfilling these purchase orders even though they may ultimately be cancelled. If a significant number of purchase orders are cancelled or product quantities ordered are reduced, and we are unable to timely generate replacement orders, we may build up excess inventory and our net sales, operating results and financial condition may suffer.

New technologies could result in the development of new products by our competitors and a decrease in demand for our products, and we may not be able to develop new products to satisfy changes in demand, which would adversely affect our net sales, market share, operating results and financial condition.

Our product range and new product development program are focused on low pin count semiconductor devices with one or more active or passive components. Our failure to develop new technologies, or anticipate or react to changes in existing technologies, either within or outside of the semiconductor market, could materially delay development of new products, which could result in a decrease in our net sales and a loss of market share to our competitors. The semiconductor industry is characterized by rapidly changing technologies and industry standards, together with frequent new product introductions. This includes the development of new types of technology or the improvement of existing technologies, such as analog and digital technologies that compete with, or seek to replace, discrete semiconductor technology. Our financial performance depends on our ability to design, develop, manufacture, assemble, test, market and support new products and product enhancements on a timely and cost-effective basis. New products often command higher prices and, as a result, higher profit margins. We may not successfully identify new product opportunities or develop and bring new products to market or succeed in selling them into new customer applications in a timely and cost-effective manner.

Products or technologies developed by other companies may render our products or technologies obsolete or noncompetitive, and since we operate primarily in a narrower segment of the broader semiconductor industry, this may have a greater effect on us than it would if we were a broad-line semiconductor supplier with a wider range of product types and technologies. Many of our competitors are larger and more established international companies with greater engineering and research and development resources than us. Our failure to identify or capitalize on any fundamental shifts in technologies in our product markets, relative to our competitors, could harm our business, have a material adverse effect on our competitive position within our industry and harm our relationships with our customers. In addition, to remain competitive, we must continue to reduce package sizes, improve manufacturing costs and expand our sales. We may not be able to accomplish these goals, which would adversely affect our net sales, market share, operating results and financial condition.

We may be subject to claims of infringement of third-party intellectual property rights or demands that we license third-party technology, which could result in significant expense, reduction in our intellectual property rights and a negative impact on our business, operating results and financial condition.

The semiconductor industry is characterized by vigorous protection and pursuit of intellectual property rights. From time to time, third parties have asserted, and may in the future assert, patent, copyright, trademark and other intellectual property rights to technology that is important to our business and have demanded, and may in the future demand, that we license their patents and technology. Any litigation to determine the validity of allegations that our products infringe or may infringe these rights, including claims arising through our contractual indemnification of our customers, or claims challenging the validity of our patents, regardless of its merit or resolution, could be costly and divert the efforts and attention of our management and technical personnel. We may not prevail in litigation given the complex technical issues and inherent uncertainties in intellectual property litigation. If litigation results in an adverse ruling, we could be required to:

- pay substantial damages for past, present and future use of the infringing technology;
- cease manufacture, use or sale of infringing products;

- discontinue the use of infringing technology;
- expend significant resources to develop non-infringing technology;
- pay substantial damages to our customers or end-users to discontinue use or replace infringing technology with non-infringing technology;
- license technology from the third party claiming infringement, which license may not be available on commercially reasonable terms, or at all; or
- relinquish intellectual property rights associated with one or more of our patent claims, if such claims are held invalid or otherwise unenforceable.

We depend on third-party suppliers for timely deliveries of raw materials, manufacturing services, product and process development, parts and equipment, as well as finished products from other manufacturers, and our reputation with customers, operating results and financial condition could be adversely affected if we are unable to obtain adequate supplies in a timely manner.

Our manufacturing operations depend upon obtaining adequate supplies of raw materials, manufacturing services, product and process development, parts and equipment on a timely basis from third parties. In some instances, a supplier may be our sole-source supplier. Our operating results could be adversely affected if we are unable to obtain adequate supplies of raw materials, manufacturing services, product and process development, parts and equipment in a timely manner or if the costs charged to us were to increase significantly. Our business could also be adversely affected if there is a significant degradation in the quality of raw materials used in our products, or if the raw materials give rise to compatibility or performance issues in our products, any of which could lead to an increase in customer returns or product warranty claims. Although we maintain rigorous quality control systems, errors or defects may arise from a supplied raw material and be beyond our detection or control. In addition, we may be subject to quality claims from customers who purchased goods from companies before we acquired those companies. Any interruption in, or change in quality of, the supply of raw materials, manufacturing services, product and process development, parts or equipment needed to manufacture our products could adversely affect our reputation with customers, operating results and financial condition.

In addition, we sell finished products from other manufacturers. Our business could also be adversely affected if there are quality problems with the finished products we sell. From time to time, various suppliers may extend lead-times, limit supplies or increase prices due to capacity constraints or other factors. We have no long-term purchase contracts with any of these manufacturers and, therefore, have no contractual assurances of continued supply, pricing or access to finished products that we sell, and any such manufacturer could discontinue supplying to us at any time. Additionally, some of our suppliers of finished products or wafers compete directly with us and may, in the future, choose not to supply products to us.

If we do not succeed in continuing to vertically integrate our business, we will not realize the cost and other efficiencies we anticipate, which could adversely affect our ability to compete, our operating results and financial condition.

We are continuing to vertically integrate our business. Key elements of this strategy include continuing to expand our sales organization, manufacturing capacity, wafer foundry and research and development capability and expand our marketing, product development, package development and assembly and test operations in company-owned facilities or through the acquisition of established contractors. There are certain risks associated with our vertical integration strategy, including:

- difficulties associated with owning a manufacturing business, including, but not limited to, the maintenance and management of manufacturing facilities, equipment, employees and inventories and limitations on the flexibility of controlling overhead;
- difficulties in continuing expansion of our operations in Asia and Europe, because of the distance from our U.S. headquarters and differing regulatory and cultural environments;
- the need for skills and techniques that are outside our traditional core expertise;
- less flexibility in shifting manufacturing or supply sources from one region to another;
- even when independent suppliers offer lower prices, we may continue to source wafers from our captive manufacturing facilities, which may result in us having higher costs than our competitors;
- difficulties developing and implementing a successful research and development team; and
- difficulties developing, protecting, and gaining market acceptance of, our proprietary technology.

The risks of becoming a fully integrated manufacturer are amplified in an industry-wide slowdown because of the fixed costs associated with manufacturing facilities. In addition, we may not realize the cost, operating and other efficiencies that we expect from continued vertical integration. If we fail to successfully vertically integrate our business, our ability to compete, profit margins, operating results and financial condition may suffer.

Part of our growth strategy involves identifying and acquiring companies. We may be unable to identify suitable acquisition candidates or consummate desired acquisitions and, if we do make any acquisitions, we may be unable to successfully integrate any acquired companies with our operations, which could adversely affect our business, operating results and financial condition.

A significant part of our growth strategy involves acquiring companies. For example, (i) in 2000, we acquired FabTech, Inc., a wafer fabrication company, in order to have our own wafer manufacturing capabilities, (ii) in 2006, we acquired Anachip Corp. as an entry into the analog market, (iii) in 2006, we acquired the net operating assets of APD Semiconductor, Inc., (iv) in 2008, we acquired Zetex plc., (v) in 2012, we acquired over 50% of the outstanding common stock of Eris Technology Corporation, (vi) also in 2012, we acquired Power Analog Microelectronics, Inc., (vii) in 2013, we acquired BCD Semiconductor Manufacturing Limited (viii) in 2015, we acquired Pericom Semiconductor Corporation, (vii) in 2019 we acquired Texas Instruments' 200mm wafer fabrication facility and operations located in Greenock, Scotland and (viii) in November of 2020 we acquired LSC. In addition, from time to time, we may be in various stages of discussions with potential acquisition targets as we intend to continue to expand and diversify our operations by making further acquisitions. However, we may be unsuccessful in identifying suitable acquisition candidates, or we may be unable to consummate a desired acquisition. To the extent we do make acquisitions, if we are unsuccessful in integrating these companies or their operations or product lines with our operations, or if integration is more difficult than anticipated, we may experience disruptions that could have a material adverse effect on our business, operating results and financial condition. In addition, we may not realize all of the benefits we anticipate from any such acquisitions. Some of the risks that may affect our ability to integrate or realize any anticipated benefits from acquisitions that we may make include those associated with:

- unexpected losses of key employees or customers of the acquired company;
- delays in obtaining customer qualification of acquired facilities;
- bringing the acquired company's standards, processes, procedures and controls into conformance with our operations;
- coordinating our new product and process development;
- hiring additional management and other critical personnel;
- increasing the scope, geographic diversity and complexity of our operations;
- difficulties in consolidating facilities and transferring processes and know-how;
- difficulties in reducing costs of the acquired entity's business;
- diversion of management's attention from the management of our business; and
- adverse effects on existing business relationships with customers.

We are subject to litigation risks, including securities class action litigation and intellectual property litigation, which may be costly to defend and the outcome of which is uncertain and could adversely affect our business and financial condition.

All industries, including the semiconductor industry, are subject to legal claims, with and without merit, including securities class action litigation that may be particularly costly and which may divert the attention of our management and our resources in general. We are involved in a variety of legal matters, most of which we consider either routine matters that arise in the normal course of business or immaterial for our aggregate business operations. These routine matters typically fall into broad categories such as those involving suppliers and customers, employment and labor, and intellectual property. We believe it is unlikely that the final outcome of these legal claims will have a material adverse effect on our financial position, operating results or cash flows. However, defense and settlement costs can be substantial, even with respect to claims that we believe have no merit. Due to the inherent uncertainty of the litigation process, the resolution of any particular legal claim or proceeding could adversely affect our business, operating results and financial condition.

From time to time, we have been, or may in the future be, involved in securities litigation or litigation arising from our acquisitions. We can provide no assurance as to the outcome of any such litigation matter in which we are a party. These types of matters are costly to defend and even if resolved in our favor, could have a material adverse effect on our business, financial condition, operating results and cash flow. Such litigation could also substantially divert the attention of our management and our resources in general. Uncertainties resulting from the initiation and continuation of securities or other litigation could harm our ability to obtain credit and financing for our operations and to compete in the marketplace. Because the price of our Common Stock has been, and may continue to be, volatile, we can provide no assurance that securities litigation will not be filed against us in the future. In addition, we can provide no assurance that our past or future acquisitions will not subject us to additional litigation. See Part I, Item 3 "Legal Proceedings" of this Annual Report for more information on our legal proceedings.

We are subject to many environmental laws and regulations that could result in significant expenses and could adversely affect our business, operating results and financial condition.

We are subject to a variety of U.S. federal, state, local and foreign governmental laws, rules and regulations related to the use, storage, handling, discharge or disposal of certain toxic, volatile or otherwise hazardous chemicals used in manufacturing our products throughout the world. Some of these regulations in the U.S. include the Federal Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act and similar state statutes and regulations. Any of these regulations could require us to acquire equipment or to incur substantial other expenses to comply with environmental regulations. If we were to incur additional expenses related to any potential or alleged violation or environmental regulations, our product costs could significantly increase, materially affecting our business, financial condition and operating results. Any failure to comply with present or future environmental laws, rules and regulations could result in fines, suspension of production or cessation of operations, any of which could have a material adverse effect on our business, operating results and financial condition. Our operations affected by such requirements include, among others: the disposal of wastewater containing residues from our manufacturing operations through publicly operated treatment works or sewer systems, and which may be subject to volume and chemical discharge limits and may also require discharge permits; and the use, storage and disposal of materials that may be classified as toxic or hazardous. Any of these may result in, or may have resulted in, environmental conditions for which we could be liable.

Some environmental laws impose liability, sometimes without fault, for investigating or cleaning up contamination on, or emanating from, our currently or formerly owned, leased or operated properties, as well as for damages to property or natural resources and for personal injury arising out of such contamination. Such liability may also be joint and several, meaning that we could be held responsible for more than our share of the liability involved, or even the entire liability. In addition, the presence of environmental contamination could also interfere with ongoing operations or adversely affect our ability to sell or lease our properties. Environmental requirements may also limit our ability to identify suitable sites for new or expanded plants. Discovery of contamination for which we are responsible, the enactment of new laws and regulations, or changes in how existing requirements are enforced, could require us to incur additional costs for compliance or subject us to unexpected financial liabilities.

We may incur additional costs and face emerging risks associated environmental, social and governance (“ESG”) factors impacting our operations.

Stakeholders such as investors, employees and the communities in which we operate have increased their focus on our ESG and sustainability related activities, specifically in the corporate social and environmental responsibility (“CSER”) areas. Some investors may use our ESG and sustainability related information as well as the ESG ratings and metrics to guide their investment strategies and measure our corporate performance. Potential and current investors may decrease or withdraw investment, or alternatively increase investment in our competitors if our CSER performance is perceived to be less than our competitors’ CSER performance. The qualitative and quantitative criteria adopted or published by third party ESG rating agencies and standards organization may continue to evolve. We may incur additional costs to satisfy these evolving expectations and criteria, and may face additional risks associated with emerging regulations governing CSER performances. We may communicate certain goals and projects regarding our CSER activities from time to time. If we are unable to meet those goals or are perceived to fail to meet the goals as planned, or if our CSER policies and practices are perceived to be inadequate, we could face reputational damages and our financial results may be adversely affected.

Our products, or products we purchase from third parties for resale, may be found to be defective and, as a result, warranty claims and product liability claims may be asserted against us and we may not have recourse against our suppliers, which may harm our business, reputation with our customers, operating results and financial condition.

Our products, or products we purchase from third parties for resale, are typically sold at prices that are an insignificant portion of the overall value of the equipment or other goods in which they are incorporated. For example, our products that are incorporated into a television may be sold for several cents, whereas the television maker might sell the television for several hundred dollars. Although we maintain rigorous quality control systems, we receive warranty claims and product liability claims for some of these products that are defective, or that do not perform to published specifications. Since a defect or failure in our products could give rise to failures in the end-products that incorporate them (and consequential claims for damages against our customers from their customers), we may face claims for damages that are disproportionate to the net sales and profits we receive from the products involved and we may not have recourse against our suppliers. In addition, our ability to reduce such liabilities may be limited by the laws or the customary business practices of the countries where we do business. Even in cases where we do not believe we have legal liability for such claims, we may choose to pay for them to retain a customer’s business or goodwill or to settle claims to avoid protracted litigation. Our operating results and business could be adversely affected as a result of a significant quality or performance issue in our products, if we are required or choose to pay for the damages that result. We may choose not to carry liability insurance, may not have sufficient insurance coverage, or may not have sufficient resources, to satisfy all possible warranty claims and product liability claims. In addition, any perception that our products are defective would likely result in reduced sales of our products, loss of customers and harm to our business, reputation, operating results and financial condition.

We may fail to attract or retain the qualified technical, sales, marketing, finance and management/executive personnel required to operate our business successfully, which could adversely affect our business, operating results and financial condition.

Our future success depends, in part, upon our ability to attract and retain highly qualified technical, sales, marketing, finance and managerial personnel. Personnel with the necessary expertise are scarce and competition for personnel with these skills is intense. We may not be able to retain existing key technical, sales, marketing, finance and managerial employees or be successful in attracting, assimilating or retaining other highly qualified technical, sales, marketing, finance and managerial/executive personnel in the future. For example, we have faced, and continue to face, intense competition for qualified technical and other personnel in China, where our assembly and test facilities are located. A number of U.S. and multi-national corporations, both in the semiconductor industry and in other industries, have recently established and are continuing to establish factories and plants in China, and the competition for qualified personnel has increased significantly as a result. If we are unable to retain existing key employees or are unsuccessful in attracting new highly qualified employees, our business, operating results and financial condition could be materially and adversely affected.

We may not be able to achieve future growth, and any such growth may place a strain on our management and on our systems and resources, which could adversely affect our business, operating results and financial condition.

Our ability to successfully grow our business requires effective planning and management. Our past growth, and our targeted future growth, may place a significant strain on our management and on our systems and resources, including our financial and managerial controls, reporting systems and procedures. In addition, we will need to continue to train and manage our workforce worldwide. If we are unable to effectively plan and manage our growth effectively, our business and prospects will be harmed and we will not be able to maintain our profitable growth, which could adversely affect our business, operating results and financial condition.

Obsolete inventories as a result of changes in demand for our products and change in life cycles of our products could adversely affect our business, operating results and financial condition.

The life cycles of some of our products depend heavily upon the life cycles of the end-products into which our products are designed. End-market products with short life cycles require us to manage closely our production and inventory levels. Inventory may also become obsolete because of adverse changes in end-market demand. We may in the future be adversely affected by obsolete or excess inventories, which may result from unanticipated changes in the estimated total demand for our products or the estimated life cycles of the end-products into which our products are designed. In addition, some customers restrict how far back the date of manufacture for our products can be and certain customers may stop ordering products from us and go out of business due to adverse economic conditions; therefore, some of our product inventory may become obsolete and, thus, adversely affect our business, operating results and financial condition.

If our direct sales customers or our distributors' customers do not design our products into their applications, our net sales may be adversely affected.

We expect an increasingly significant portion of net sales will come from products we design specifically for our customers. However, we may be unable to achieve these design wins. In addition, a design win from a customer does not guarantee future sales to that customer. Without design wins from direct sales customers, we would only be able to sell our products to these direct sales customers as a second source, which usually means we are only able to sell a limited amount of product to them. Once a direct sales customer designs another supplier's semiconductors into one of its product platforms, it is more difficult for us to achieve future design wins with that direct sales customer's product platform because changing suppliers involves significant cost, time, effort and risk to a direct sales customer. Achieving a design win with a customer does not ensure that we will receive significant net sales from that customer, and we may be unable to convert design wins into actual sales. Even after a design win, the customer is not obligated to purchase our products and can choose at any time to stop using our products, if, for example, its own products are not commercially successful or if the customer can obtain a superior product or the product at a lower cost from one of our competitors.

We are subject to interest rate risk that could have an adverse effect on our cost of working capital and interest expenses, which could adversely affect our business, operating results and financial condition.

We currently have a U.S. credit facility under which, as of December 31, 2020, we had a remaining principal balance of \$282.3 million under a term loan, and had nothing drawn on a \$150.0 million revolver, \$150.0 million of which remained available as of December 31, 2020. In addition to our U.S. credit facility we have \$140.6 million outstanding under short-term foreign credit facilities. In addition to our U.S. credit facility and our short-term foreign credit facilities, our 51% owned subsidiary, ERIS Technology Corporation (“ERIS”), borrowed \$30.0 million on a long-term basis from local Taiwan banks in order to make an investment. See “Liquidity and Capital Resources” below and Note 8 of “Notes to Consolidated Financial Statements” of this Annual Report for additional information. A rise in interest rates could have an adverse impact upon our cost of working capital and our interest expense. Based on our debt balances at December, 31, 2020, an increase or decrease in interest rates by 1.0% for the year on our credit facilities would increase or decrease our annual interest rate expense by less than \$1.8 million, net of the amounts realized from our interest rate swaps.

Our hedging strategies may not be successful in mitigating our risks associated with interest rates or foreign exchange exposure or our counterparties might not perform as agreed.

We use interest rate swaps and foreign exchange forward contracts to provide a level of protection against interest rate risks and foreign exchange exposure, but no hedging strategy can protect us completely. The nature and timing of hedging transactions influence the effectiveness of these strategies. Poorly designed strategies, improperly executed and documented transactions or inaccurate assumptions could actually increase our risks and losses. In addition, hedging strategies involve transaction and other costs. The hedging strategies and the derivatives that we use may not be able to adequately offset the risks of interest rate volatility and our hedging transactions may result in or magnify losses. Furthermore, interest rate and foreign exchange derivatives may not be available on favorable terms or at all, particularly during economic downturns. Any of the foregoing risks could adversely affect our business, financial condition and results of operations. We are exposed to counterparty credit risk in the event of non-performance by counterparties to the interest rate swaps and foreign exchange contracts.

We may have a significant amount of debt with various financial institutions worldwide. Any indebtedness could adversely affect our business, operating results, financial condition and our ability to meet payment obligations under such debt.

We may have a significant amount of debt and substantial debt service requirements on our borrowings, including our credit facilities with various financial institutions worldwide. As of December 31, 2020, \$282.3 million was outstanding under our U.S. credit facility. In addition, we have short-term foreign credit facilities with borrowing capacities of approximately \$307.1 million with an unused amount of \$168.9 million.

Our outstanding debt could have significant consequences on our future operations, including:

- making it more difficult for us to meet our payment and other obligations under our outstanding debt agreements;
- resulting in one or more events of default if we fail to comply with the financial and other restrictive covenants contained in our debt agreements, which events of default could result in all of our debt becoming immediately due and payable and, in the case of an event of default under our secured debt could permit the lenders to foreclose on our assets securing that debt;
- reducing the availability of our cash flow to fund working capital, capital expenditures, acquisitions and other general corporate purposes, and limiting our ability to obtain additional financing for these purposes;
- subjecting us to the risks of increased sensitivity to interest rate increases on our indebtedness with variable interest rates;
- limiting our flexibility in planning for, or reacting to, and increasing our vulnerability to, changes in our business, the industry in which we operate and the general economy; and
- placing us at a competitive disadvantage compared to our competitors that have less debt or are less leveraged.

Any of the above-listed factors could have an adverse effect on our business, operating results, financial condition and our ability to meet our payment obligations under our debt agreements.

Our U.S. credit facility and our foreign credit lines bear interest at LIBOR or similar indices plus a specified margin. In July 2017, the U.K.’s Financial Conduct Authority, which regulates LIBOR, announced that it intends to stop persuading or compelling banks to submit rates for the calculation of LIBOR after 2021. The cessation date for submission and publication of rates for certain tenors of LIBOR has since been extended by the ICE Benchmark Administration until mid-2023. In response to concerns regarding the future of LIBOR, the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of New York convened the Alternative Reference Rates Committee (“ARRC”) to identify alternatives to LIBOR. The ARRC has recommended benchmark-

replacement procedures to assist issuers in continued capital market entry while safeguarding against LIBOR's discontinuation. The initial steps in the ARRC's recommended provision reference variations of the Secured Overnight Financing Rate ("SOFR"). Additionally, it is uncertain if applicable tenors of LIBOR will cease to exist after calendar year 2021, or whether additional reforms to LIBOR may be enacted, or whether alternative reference rates will gain market acceptance as a replacement for LIBOR. At this time, it is not possible to predict whether SOFR will attain market traction as a LIBOR replacement. All of our existing debt obligations that are based on LIBOR will mature by the end of 2023, but in anticipation of LIBOR's phase out, our U.S. credit facility (which matures May 29, 2023) was amended to provide for alternative benchmark rates (including a hard-wired SOFR-based alternative benchmark) as well as transition mechanisms for selecting another benchmark replacement rate for LIBOR, with such benchmark replacement rate to be mutually agreed with the lenders under the U.S. credit facility. We will continue to monitor the situation and address the potential reference rate changes in future debt obligations that we may incur. Accordingly, the potential effect of the phase-out or replacement of LIBOR on our cost of capital cannot yet be determined. Further, the use of an alternative base rate or a benchmark replacement rate as a basis for calculating interest with respect to any outstanding variable rate indebtedness could lead to an increase in the interest we pay and a corresponding increase in our costs of capital or otherwise have a material adverse impact on our business, financial condition or results of operations.

Restrictions in our credit facilities may limit our business and financial activities, including our ability to obtain additional capital in the future.

Our U.S. credit facility contains covenants imposing various restrictions on our business and financial activities. These restrictions may affect our ability to operate our business and undertake certain financial activities and may limit our ability to take advantage of potential business or financial opportunities as they arise. The restrictions these covenants place on us include limitations on our ability to incur liens, incur indebtedness, make investments, dissolve or merge or consolidate with or into another entity, dispose of certain property, make restricted payments (including dividends and share repurchases), issue or sell equity interests, engage in other different material lines of business, conduct related party transactions, enter into certain burdensome contractual obligations and use proceeds from our credit facility to purchase or carry margin stock or to extend credit to others for the same purpose. Our U.S. credit facility also requires us to meet certain financial ratios, including a minimum consolidated fixed charge coverage ratio and a maximum consolidated leverage ratio.

Our ability to comply with the U.S. credit facility may be affected by events beyond our control, including prevailing economic, financial and industry conditions, and are subject to the risks stated in this section of the Annual Report. The breach of any of these covenants or restrictions could result in an event of default under the facility. An event of default under the facility would permit the lenders under the facility to declare all amounts owed under such facility to be immediately due and payable in full. Upon acceleration of our indebtedness, we may be unable to repay the accelerated amount of principal and interest on the credit facilities that would then be due. See "Management's Discussion and Analysis of Financial Condition and Results of Operations – Financial Condition-*Debt instruments*" in Part II, Item 7 of this Annual Report for additional information.

Our business benefits from certain Chinese government incentives. Expiration of, or changes to, these incentives could adversely affect our operating results and financial condition.

The Chinese government has provided various incentives to technology companies, including our manufacturing facilities located in Shanghai and Chengdu, China, in order to encourage development of the high-tech industry. These incentives include reduced tax rates and other measures. As a result, we are entitled to a preferential enterprise income tax rate of 15% so long as our manufacturing facilities continue to maintain their High and New Technology Enterprise ("HNTE") status. One of our manufacturing facilities and one of our wafer fabrication facilities located in Shanghai are approved for HNTE status for the tax years 2018-2020. The Company expected to continue to meet HTND requirements in future years. HNTE qualification requires, but is not limited to, metrics based on China research and development expenditures as well as research and development headcount and overall college-degreed headcount. Any prior years that have already been approved are subject to audit requirements. If we were to no longer meet the HNTE requirements, our statutory tax rate for our approved Shanghai facilities would increase to 23% for any period in which an audit shows we were not compliant, which could adversely affect our operating results and financial condition.

In connection with our joint venture in Chengdu, China, with Ya Guang, we have qualified for tax incentives offered in the Go West Initiative ("Go West"), where companies are entitled to a preferential income tax rate of 15% for doing business in western China. If we were to no longer meet the Go West requirements, our statutory tax rate for this joint venture would increase to 25%, which could adversely affect our operating results and financial condition since we own 98% of this joint venture entity.

The impact of our HNTE and Go West status, collectively called tax holidays, decreased our tax expense by approximately \$0.9 million, \$3.1 million and \$1.6 million for the years ended December 31, 2020, 2019 and 2018, respectively. The benefit of the tax holidays on basic and diluted earnings per share for the twelve months ended December 31, 2020, 2019 and 2018 was approximately \$0.02, \$0.06 and \$0.03, respectively.

We operate a global business through numerous foreign subsidiaries, and there is a risk that tax authorities will challenge our transfer pricing methodologies or legal entity structures, which could adversely affect our operating results and financial condition.

We conduct operations worldwide through our foreign subsidiaries and are, therefore, subject to complex transfer pricing regulations in the jurisdictions in which we operate. Transfer pricing regulations generally require that, for tax purposes, transactions between related parties be priced on a basis that would be comparable to an arm's length transaction between unrelated parties. There is uncertainty and inherent subjectivity in complying with these rules. To the extent that any foreign tax authorities disagree with our transfer pricing policies, we could become subject to significant tax liabilities and penalties. Based on our current knowledge and probability assessment of potential outcomes, we believe that we have provided for all tax exposures. However, the ultimate outcome of a tax examination could differ materially from our provisions and could have a material adverse effect on our business, financial condition, operating results and cash flows.

Our legal organizational structure could result in unanticipated unfavorable tax or other consequences which could have a material adverse effect on our financial condition and operational results. In some countries, we maintain multiple entities for tax or other purposes. Changes in tax laws, regulations, future jurisdictional profitability of us and our subsidiaries, and related regulatory interpretations in the countries in which we operate may impact the taxes we pay or tax provision we record, which could have a material adverse effect on our operating results. In addition, any challenges to how our entities are structured or realigned or their business purpose by taxing authorities could result in us becoming subject to significant tax liabilities and penalties which could have a material adverse effect on our business, financial condition, operating results and cash flows.

The value of our benefit plan assets and liabilities is based on estimates and assumptions, which may prove inaccurate and the actual amount of expenses recorded in the consolidated financial statements could differ materially from the assumptions used.

Certain of our employees in the U.K. participate in a company-sponsored defined benefit plan, which is closed to new entrants and is frozen with respect to future benefit accruals. The retirement benefit is based on the final average compensation and service of each eligible employee. In accounting for these plans, we are required to make actuarial assumptions that are used to calculate the earning value of the related assets, where applicable, and liabilities and the amount of expenses to be recorded in our consolidated financial statements. Assumptions include, but are not limited to, the expected return on plan assets, discount rates, and mortality rates. While we believe the underlying assumptions under the projected unit credit method are appropriate, the carrying value of the related assets and liabilities and the actual amount of expenses recorded in the consolidated financial statements could differ materially from the assumptions used.

Changes in actuarial assumptions for our defined benefit plan could increase the volatility of the plan's asset value, require us to increase cash contributions to the plan and have a negative impact on our cash flows, operating results and financial condition.

The assets of our defined benefit pension plan (the "plan") in the U.K. provide pensions to employees and former employees. The plan's assets are invested in a diverse range of listed and unlisted securities, including corporate bonds and mutual funds and are determined, from time to time, based on their fair market value. The plan's obligation to pay pensions is estimated by using actuarial assumptions. To the extent that the plan's assets are not sufficient to meet the estimated amount of the plan's obligations, further funding of the plan will be required by the plan's sponsoring employers, Diodes Zetex Limited and Diodes Zetex Semiconductors Limited, over an agreed upon deficit recovery period.

As of December 31, 2020, the benefit obligation of the plan was approximately \$175.3 million and the total assets in such plan were approximately \$147.9 million. Therefore, the plan was underfunded by approximately \$27.4 million. The difference between plan obligations and assets, or the funded status of the plan, is a significant factor in determining the net periodic benefit costs of the plan and the ongoing funding requirements of the plan.

Any fluctuations in the U.K. equity markets and bond markets or changes in several key actuarial assumptions, including, but not limited to, changes in discount rate, estimated return on the plan and mortality rates, can (i) affect the level of plan funding, (ii) cause volatility in the net periodic pension cost, and (iii) increase our future funding requirements. In the event that actual results differ from the actuarial assumptions or actuarial assumptions are changed, the funding status of the plan may change. Any deficiency in the funding of the plan could result in additional charges to equity and an increase in future plan expense and cash contribution. A significant increase in our funding requirements could have a negative impact on our cash flows, operating results and financial condition.

The trustees under the plan are required to review the plan's funding position every three years. The pension plan funding valuation as at March 31, 2019 resulted in a deficit of approximately GBP 26.7 million (approximately \$34.7 million based on a GBP: USD exchange rate of 1:1.3). As a result of this valuation we agreed to a revised schedule of contributions of GBP 2.0 million (approximately \$2.6 million based on a GBP: USD exchange rate of 1:1.3) to be paid in annual installments with effect from April 1,

2020 to address the deficit revealed by the valuation (with the first payment to be made by March 31, 2021, and payments to be made by December 31 each year thereafter). These contributions, together with the assumed asset outperformance, are expected to eliminate the deficit by December 31, 2028. Further, we will pay GBP 0.2 million in annual installments effective April 1, 2020 to cover plan expenses. Moving the recovery plan from a 2030 deadline to a 2029 deadline could require us to increase our plan contributions. If we fail to reach an agreement with the plan trustees, as we are required to do every three years, the pension regulator in the U.K. could impose contributions on Diodes Zetex Limited or Diodes Zetex Semiconductors Limited, or in limited circumstances could require financial support to be provided to the plan from entities connected or associated with Diodes Zetex Limited or Diodes Zetex Semiconductors Limited. Furthermore, Diodes Zetex Limited and Diodes Zetex Semiconductors Limited remain ultimately liable to fully fund the plan regardless of any failure to agree upon future contributions in respect of a particular actuarial valuation, i.e., if either the plan or those companies were wound up, a debt equal to each company's share of the entire outstanding deficit at that time (calculated on a statutory conservative basis) would be owed by the relevant company. This could have a material adverse effect on our cash flows, operating results and financial condition.

Certain of our customers and suppliers require us to comply with their codes of conduct, which may include certain restrictions that may substantially increase our cost of doing business as well as have an adverse effect on our operating efficiencies, operating results and financial condition.

Certain of our customers and suppliers require us to agree to comply with the Electronic Industry Code of Conduct ("EICC") or their own codes of conduct, which may include detailed provisions on labor, human rights, health and safety, environment, corporate ethics and management systems. Certain of these provisions are not requirements under the laws of the countries in which we operate and may be burdensome to comply with on a regular basis. Moreover, new provisions may be added or material changes may be made to any these codes of conduct, and we may have to promptly implement such new provisions or changes, which may substantially further increase the cost of our business, be burdensome to implement and adversely affect our operational efficiencies and operating results. If we violate any such codes of conduct, we may lose further business with the customer or supplier and, in addition, we may be subject to fines from the customer or supplier. While we believe that we are currently in compliance with our customers and suppliers' codes of conduct, there can be no assurance that, from time to time, if any one of our customers and suppliers audits our compliance with such code of conduct, we would be found to be in full compliance. A loss of business from these customers or suppliers could have a material adverse effect on our business, operating results and financial condition.

Compliance with government regulations and customer demands regarding the use of "conflict minerals" may result in increased costs and may have a negative impact on our business, operating results and financial condition.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 imposes new disclosure requirements regarding the use of certain minerals, which are mined from the Democratic Republic of Congo and adjoining countries, known as conflict minerals. These requirements affect the pricing, sourcing and availability of minerals used in the manufacture of semiconductor devices (including our products). We are incurring additional costs associated with complying with the disclosure requirements, such as costs related to determining the source of any conflict minerals used in our products. Our supply chain is complex, and we may be unable to verify the origins for all metals used in our products. Customers may demand that the products they purchase be free of conflict minerals. Therefore, we may encounter challenges with our customers and stockholders if we are unable to certify that our products are conflict free. This requirement could affect the sourcing and availability of products we purchase from suppliers. This may reduce the number of suppliers that may be able to provide conflict-free products, and may affect our ability to obtain products in sufficient quantities to meet customer demand or at competitive prices.

There are risks associated with previous and future acquisitions. We may ultimately not be successful in overcoming these risks or any other problems encountered in connection with acquisitions.

The risks commonly encountered in acquisitions of companies include, among other things, higher than anticipated acquisition costs and expenses, the difficulty and expense in integrating the operations and personnel of the companies, the difficulty of bringing standards, procedures and controls, including disclosure controls and procedures and internal control over financial reporting, into conformance with our operations, the ability to coordinate our new products and process development, the ability to hire additional management and other critical personnel, the ability to increase the scope, geographic diversity and complexity of our operations, difficulties in consolidating facilities and transferring processes and know-how, difficulties in reducing costs, prolonged diversion of our management's attention from the management of our business, the ability to clearly define our present and future strategies, the loss of key employees and customers as a result of changes in management and any geographic distances may make integration slower and more challenging. We may ultimately not be successful in overcoming these risks or any other problems encountered in connection with acquisitions.

In addition, any acquisition may cause large one-time expenses as well as create goodwill and other intangible assets that may result in significant asset impairment charges in the future.

If we fail to maintain an effective system of internal controls or discover material weaknesses in our internal control over financial reporting, we may not be able to report our financial results accurately or detect fraud, which could harm our business and the trading price of our Common Stock.

Effective internal controls are necessary for us to produce reliable financial reports and are important in our effort to prevent financial fraud. We are required to periodically evaluate the effectiveness of the design and operation of our internal controls. These evaluations may result in the conclusion that enhancements, modifications or changes to our internal controls are necessary or desirable. While management evaluates the effectiveness of our internal controls on a regular basis, these controls may not always be effective. There are inherent limitations on the effectiveness of internal controls, including collusion, management override, and failure of human judgment. Because of this, control procedures are designed to reduce rather than eliminate business risks. If we fail to maintain an effective system of internal controls or if management or our independent registered public accounting firm were to discover material weaknesses in our internal controls, we may be unable to produce reliable financial reports or prevent fraud, which could harm our financial condition and operating results, and could result in a loss of investor confidence and a decline in our stock price.

RISKS RELATED TO OUR INTERNATIONAL OPERATIONS

Our international operations subject us to risks that could adversely affect our operations.

We expect net sales from foreign markets to continue to represent a significant portion of our total net sales. In addition, the majority of our manufacturing facilities are located in China. For the twelve months ended 2020 our Asian and European subsidiaries represented approximately 78% of our net sales, while in 2019 and 2018, our Asian and European subsidiaries represented over 77% and 85%, respectively, of our net sales. The decline of net sales in our Asia and European based subsidiaries beginning in 2019 represents a shift in business practices to fulfill more orders from our non-Asia based subsidiaries. There are risks inherent in doing business internationally, and any or all of the following factors could cause harm to our business:

- changes in, or impositions of, legislative or regulatory requirements, including income tax or value added tax laws in the U.S. and in the countries in which we manufacture or sell our products;
- compliance with trade or other laws in a variety of jurisdictions;
- trade restrictions, transportation delays, work stoppages, and economic and political instability;
- changes in import/export regulations, tariffs and freight rates;
- difficulties in collecting receivables and enforcing contracts;
- currency exchange rate fluctuations;
- restrictions on the transfer of funds from foreign subsidiaries to the U.S.;
- the possibility of international conflict, particularly between or among China, the U.K., Germany, Taiwan and the U.S.;
- legal, regulatory, political and cultural differences among the countries in which we do business;
- longer customer payment terms; and
- changes in U.S. or foreign tax regulations.

We have significant operations and assets in China, the U.K., Germany, Hong Kong and Taiwan and, as a result, will be subject to risks inherent in doing business in those jurisdictions, which may adversely affect our financial performance and operating results.

We have a significant portion of our assets in mainland China, U.K., Germany, Hong Kong and Taiwan. Our ability to operate in these countries may be adversely affected by changes in those jurisdictions' laws and regulations, including those relating to taxation, including, but not limited to income tax and value added tax, import and export tariffs, environmental regulations, land use rights, property and other matters. In addition, our operating results and financial performance are subject to the economic and political situations. We believe that our operations are in compliance with all applicable legal and regulatory requirements. However, the central or local governments of these jurisdictions may impose new, stricter regulations or interpretations of existing regulations that would require additional expenditures and efforts on our part to ensure our compliance with such regulations or interpretations.

Changes in the political environment or government policies in those jurisdictions could result in revisions to laws or regulations or their interpretation and enforcement, increased taxation, restrictions on imports, import duties or currency revaluations. In addition, a significant destabilization of relations between or among China, the U.K., Germany, Hong Kong, Taiwan and the U.S. could result in restrictions or prohibitions on our operations or the sale of our products or the forfeiture of our assets in these jurisdictions. There can be no certainty as to the application of the laws and regulations of these jurisdictions in particular instances. Enforcement of existing laws or agreements may be sporadic and implementation and interpretation of laws inconsistent. Moreover, there is a high

degree of fragmentation among regulatory authorities, resulting in uncertainties as to which authorities have jurisdiction over particular parties or transactions. The possibility of political conflict between these countries or with the U.S. could have an adverse impact upon our ability to transact business in these jurisdictions and to generate profits.

Significant uncertainties related to changes in governmental policies and participation in international trading partnerships or economic unions currently exist, and, depending upon how such uncertainties are resolved, the changes could have a material adverse effect on us.

Changes to existing trade agreements, such as the North American Free Trade Agreement, greater restrictions on international trade generally and significant increases in tariffs on goods imported into the United States, particularly from China, could materially adversely affect our business and operations. Changes in U.S. social, political, regulatory and economic conditions or in laws and policies governing foreign trade, manufacturing, development and investment in the territories and countries where we currently develop, manufacture and sell products, and any negative reactions towards the United States as a result of such changes, could adversely affect our business and operations. In addition, negative sentiments towards the U.S. among non-U.S. customers and among non-U.S. employees or prospective employees could adversely affect our international sales or the hiring and retention of qualified employees, respectively.

The United Kingdom exit from the European Union has also created political and economic uncertainty, particularly in the U.K. and the European Union, and this uncertainty may last for years. Our business and operations in the U.K. the European Union, and worldwide could be materially adversely affected by the U.K. exit. Future events as a consequence of the U.K. exit, including stresses within the U.K. itself, may cause significant volatility in global financial markets, including global currency and debt markets, and may result in a slowdown in economic activity in the U.K., Europe or globally, which could materially adversely affect our operating results and growth prospects. In addition, our business and operations could be materially adversely affected by new or revised trade agreements between countries in which we have operations or do business, including the U.S., the U.K., the European Union and China, as well as by the possible impositions of tariffs or trade or other regulatory barriers by any nation where we have operations or do business.

Tariffs or other restrictions imposed by the United States Trade Representative may affect our operations in the U.S., may disrupt our activities in the U.S., may have an adverse impact on our profitability and results of operations and may encourage the independent development in China of products and electronic components that will compete with ours or displace our products and components, resulting in an adverse impact on our business in China.

In May 2019, at the direction of the President of the United States, the United States increased the level of tariffs from 10% to 25% on approximately \$200 billion worth of Chinese imports. The President also ordered the U.S. Trade Representative to begin the process of raising tariffs on essentially all remaining imports from China, which are valued at approximately \$300 billion. These tariffs are in addition to the new or higher tariffs on specified products imported from China in response to what the U.S. characterizes as unfair trade practices. China responded to the earlier increased tariffs by proposing new or higher tariffs on specified products imported from the United States. Negotiations between the U.S. and China to resolve the issues that precipitated the impositions of these tariffs are reported to be ongoing, but the situation is dynamic and the timing and nature of any ultimate resolution is currently uncertain. In June 2019, President Trump and Chinese President Xi Jinping agreed that they did not plan more tariffs against each other's countries, but on August 1, 2019, President Trump announced that on September 1, 2019, the U.S. would put an additional tariff of 10% on \$300 billion of goods and products coming from China to the U.S.

On August 23, 2019, in response to China announcing additional tariffs on U.S. products, President Trump instructed the U.S. Trade Representative to increase by 5% the tariffs on approximately \$550 billion worth of Chinese imports to the U.S. This would have increased the tariff rate on \$250 billion worth of Chinese imports, effective October 1, 2019 to 30% and raised the tariff rate to 15% on \$300 billion worth of Chinese imports previously announced, but on September 11, 2019 President Trump announced that the effective date would be extended to October 15, 2019 as "a gesture of goodwill." On October 12, 2019, President Trump announced that the U.S. would halt the October 15, 2019 tariff increase after positive negotiations with the China representatives in Washington, D.C. On January 15, 2020, the U.S. and China signed a Phase One trade deal pursuant to which, among other things, the U.S. agreed to modify its Section 301 tariff actions (described in this risk factor) in a significant way. On December 31, 2020, a majority of the previously imposed tariff exclusions expired resulting in an increase in the taxes paid by US companies on imports of many products from China. In addition, in December 2020, then President-Elect Joe Biden publicly stated that he was not planning to make immediate moves with respect to tariffs. Given the change in power in the U.S. government in January 2021, significant uncertainty remains regarding tariffs and their impact on our Company as President Biden's administration begins to implement new or revised U.S.-China trade policies.

Most of our products are manufactured in China and then a portion of those products are imported into the U.S. The impacts on us of the recently imposed and proposed tariffs are uncertain because of the dynamic nature of governmental actions and responses, as well as possible exemptions for certain products. If the U.S. and China are able to negotiate the issues to restore a mutually advantageous and fair trading regime, the increased tariffs could be eliminated, but given the uncertainties, there can be no assurance of whether, or when, this will be accomplished. We have taken actions, and may take additional steps, to mitigate those impacts and protect our competitive position in the marketplace. If we determine to pass some or all of these new tariff burdens on to our

customers, the result may be a degradation of our competitive position and a loss of customers that would adversely affect our operating performance. It is not clear at this time what the ultimate outcome of these tariff actions and our mitigation efforts will be, but given the importance of our Chinese operations and related sales, and the impacts of existing and possible future restrictions with regard to transactions with Chinese entities, it is very possible that our operating results and/or financial condition may be adversely affected.

On August 25, 2019, President Trump advised American companies to seek alternatives to China for the manufacture of their products, citing the U.S. “International Emergency Economic Powers Act of 1977” as a possible basis for applying a sanction of this sort. Given the inauguration of Mr. Biden as President of the United States in January 2021, it is not clear when, whether or in what form, this threat will be put into action, but if it does materialize our results of operations and financial condition likely will be materially adversely affected.

In addition to the ongoing issues regarding tariffs, China has been stepping up efforts to design and manufacture semiconductors itself rather than buy from U.S. companies, amid fears that sanctions might cripple its high-tech industry. U.S. restrictions on exports to Chinese telecoms equipment makers have sharpened Beijing’s focus on semiconductor self-sufficiency. China’s ministry of finance announced tax breaks “to support the development of integrated circuit design and the software industry,” cancelling corporate taxes for some domestic Chinese companies for two years. Although the outcome of these efforts is uncertain, the development of such capacity in China would likely have a material adverse effect on our profitability and results of operations.

The U.K.’s exit from the European Union (“E.U.”) will continue to have uncertain effects and could adversely impact our business, results of operations and financial condition.

On June 23, 2016, the U.K. voted to exit from the E.U. (commonly referred to as “Brexit”). The U.K. exited the E.U. on January 31, 2020. The U.K.’s exit from the E.U. is to be followed by an 11-month transition period to allow the U.K. and the E.U. to finalize new trade, security, data, fishing and transport policies to shape their new relationship. The impacts of the implementation of Brexit and the resulting relationship between the U.K. and the E.U. are uncertain for companies doing business both in the U.K. and the overall global economy. The U.K. vote impacted global markets, including various currencies, and resulted in a sharp decline in the value of the British Pound as compared to the U.S. dollar and other major currencies. The fluctuation of currency exchange rates may expose us to gains and losses on non-U.S. currency transactions. Volatility in the securities markets and in currency exchange rates may continue as the U.K. and the E.U. finalize the new trade, security data, fishing and transport policies. While we have not experienced any material financial impact from Brexit on our business to date, we cannot predict its future implications. Any impact from Brexit on our business and operations over the long term will depend, in part, on the outcome of tariff, tax treaties, trade, regulatory, and other negotiations the U.K. conducts.

A slowdown in the Chinese economy could limit the growth in demand for electronic devices containing our products, which would have a material adverse effect on our business, operating results and prospects.

We believe that an increase in demand in China for electronic devices that include our products will be an important factor in our future growth. Continuing weakness in the Chinese economy could result in a decrease in demand for electronic devices containing our products and, thereby, materially and adversely affect our business, operating results and prospects.

Economic regulation in China could materially and adversely affect our business, operating results and prospects.

We have a significant portion of our manufacturing capacity in mainland China. In addition, in 2020 approximately 53% of our total sales were shipped to customers in China. In recent years, the Chinese economy has experienced periods of rapid expansion and wide fluctuations in the rate of inflation. In response to these factors, the Chinese government has, from time to time, adopted measures to regulate growth and contain inflation, including measures designed to restrict credit or control prices. Such actions in the future could increase the cost of doing business in China or decrease the demand for our products in China and, thereby, have a material adverse effect on our business, operating results and prospects.

We could be adversely affected by violations of the United States’ Foreign Corrupt Practices Act, the U.K.’s Bribery Act 2010, China’s anti-corruption campaign and similar worldwide anti-bribery laws.

The United States’ Foreign Corrupt Practices Act (“FCPA”), the United Kingdom’s Bribery Act 2010 (the “U.K. Bribery Act”), China’s anti-corruption campaign and similar anti-bribery laws in other jurisdictions generally prohibit companies and their intermediaries from making improper payments to government officials for the purpose of obtaining or retaining business. Our policies mandate compliance with these anti-bribery laws. We operate in many parts of the world that may have experienced governmental corruption to some degree and, in certain circumstances, strict compliance with anti-bribery laws may conflict with local customs and practices. We train our staff concerning FCPA, the U.K. Bribery Act and related anti-bribery laws. We have established procedures and controls to monitor internal and external compliance. There can be no assurance that our internal controls and procedures always will protect us from reckless or criminal acts committed by our employees or agents, and we have no third party attestation to the effectiveness of our internal controls related to fraud and corruption. If we are found to be liable for FCPA, the U.K. Bribery Act and other anti-bribery law violations (either due to our own acts or inadvertence, or due to the acts or inadvertence of others), we could incur criminal or civil penalties or other sanctions, which could have a material adverse effect on our business and operating results.

We are subject to foreign currency risk as a result of our international operations.

We face exposure to adverse movements in foreign currency exchange rates, principally the Chinese Yuan, the Taiwanese dollar, the Euro and the British Pound Sterling and, to a lesser extent, the Japanese Yen and the Hong Kong dollar. Our income and expenses are based on a mix of currencies and a decline in one currency relative to the other currencies could adversely affect our operating results. Furthermore, our operating results are reported in U.S. dollars, which is our reporting currency. In the event the U.S. dollar weakens against a foreign currency, we will experience a currency transaction loss, which could adversely affect our operating results. Also, fluctuations in foreign currency exchange rates may have an adverse impact and be increasingly influential to our overall sales, profits and operating results as amounts that are measured in foreign currency are translated back to U.S. dollars for reporting purposes. Our foreign currency risk may change over time as the level of activity in foreign markets grows and could have an adverse impact upon our financial results, especially if the portion of our sales attributable to Europe increases. We have taken, and plan to continue to take, efforts to mitigate some of our foreign currency exposure by entering into foreign exchange hedging agreements with financial institutions to reduce exposures to some of the principal currencies in countries in which we conduct sales, acquire raw materials, build products and make capital investments, but these efforts may not be successful. In this regard, these hedging agreements do not cover all currencies in which we do business, do not eliminate foreign currency risk entirely for the currencies that they do cover, and involve costs and risks of their own in the form of transaction costs, credit requirements and counterparty risk.

China is experiencing rapid social, political and economic change, which has increased labor costs and other related costs that could make doing business in China less advantageous than in prior years. Increased labor costs in China could adversely affect our business, operating results and financial condition.

Historically, labor in China has been readily available at a lower cost compared to other countries. However, because China is experiencing rapid social, political and economic change, there can be no assurance that labor will continue to be available in China at costs consistent with historical levels. Any future increase in labor cost in China is likely to be higher than historical and projected amounts and may occur multiple times in any given year. As a result of experiencing such rapid social, political and economic change, China is also likely to enact new, and/or revise its existing, labor laws and regulations on employee compensation and benefits. These changes in Chinese labor laws and regulations will likely to have an adverse effect on product manufacturing costs in China. Furthermore, if China workers go on strike to demand higher wages, our operations could be disrupted. Many of our suppliers are currently dealing with labor shortages in China, which may result in future supply delays and disruptions and may drive a substantial increase in their labor costs that is likely to be shared by us in the form of price increases to us. New or revised government labor laws or regulations, strikes or labor shortages could cause our product costs to rise and/or could cause manufacturing partners on whom we rely to exit the business. These events could have a material adverse impact on our product availability and quality, which would affect our business, operating results and financial condition.

We may not continue to receive preferential tax treatment in Asia, thereby increasing our income tax expense and reducing our net income.

As an incentive for establishing our manufacturing subsidiaries in China, we receive preferential tax treatment. Governmental changes in foreign tax law may cause us not to be able to continue receiving these preferential tax treatments in the future, which may cause an increase in our income tax expense, thereby reducing our net income.

The distribution of any earnings of certain foreign subsidiaries may be subject to foreign income taxes, thus reducing our net income.

Our undistributed foreign earnings continue to be indefinitely reinvested in foreign operations, with limited exceptions related to earnings of European and Asian subsidiaries. Any future distributions of foreign earnings will not be subject to additional U.S. income tax, but may be subject to foreign withholding taxes. As of December 31, 2020, we had undistributed earnings from non-U.S. operations of approximately \$1.6 billion (including approximately \$287 million of restricted earnings, which are not available for dividends). Undistributed earnings of our China subsidiaries comprise \$469 million of this total. Additional Chinese withholding taxes of approximately \$45 million would be required should the \$469 million of such earnings be distributed out of China as dividends.

We could be adversely affected by the compromise or theft of our technology, know-how, data or intellectual property or a requirement that we yield rights in technology, know-how, data stored in foreign jurisdictions or intellectual property that we use in such foreign jurisdictions.

In general, we rely on the intellectual property and unfair competition laws and contractual restrictions to protect our technology, know-how, data and intellectual property in the foreign jurisdictions in which we operate. We believe our technology, know-how, data and other intellectual property rights are important to our success. Any unauthorized use of our technology, know-how, data and other intellectual property rights could harm our competitive advantages and business. For example, some jurisdictions have not protected intellectual property rights to the same extent as the United States, and infringement of intellectual property rights continues to pose a serious risk of doing business in such jurisdictions. The measures we take to protect our intellectual property rights may not be adequate. Furthermore, the application of laws governing intellectual property rights in certain foreign jurisdictions is uncertain and evolving, and could involve substantial risks to us. Infringement of our patents or required technology or know-how transfers to

foreign entities could create competition for us, and such competition could have a material adverse effect on our longer-term profitability and success.

RISKS RELATED TO OUR COMMON STOCK

Variations in our quarterly operating results may cause our stock price to be volatile.

We have experienced substantial variations in net sales, gross profit margin and operating results from quarter to quarter. We believe that the factors that influence this variability of quarterly results include:

- strength of the global economy and the stability of the financial markets;
- general economic conditions in the countries where we sell our products;
- seasonality and variability in the computing and communications market and our other end-markets;
- the timing of our and our competitors' new product introductions;
- product obsolescence;
- the scheduling, rescheduling and cancellation of large orders by our customers;
- the cyclical nature of the demand for our customers' products;
- our ability to develop new process technologies and achieve volume production at our fabrication facilities;
- changes in manufacturing yields;
- adverse movements in exchange rates, interest rates or tax rates; and
- the availability of adequate supply commitments from our outside suppliers or subcontractors.

Accordingly, a comparison of our operating results from period to period is not necessarily meaningful to investors and our operating results for any period do not necessarily indicate future performance. Variations in our quarterly results may trigger volatile changes in our stock price.

General or industry-specific market conditions or stock market performance or domestic or international macroeconomic and geopolitical factors unrelated to our performance also may affect the price of our stock. For these reasons, investors should not rely on recent or historical trends to predict future stock prices, financial condition, operating results or cash flows. In addition, as discussed in Part I, Item 3 "Legal Proceedings" of this Annual Report, we are involved in various legal proceedings that arise in the normal course of business. Additional volatility in the price of our securities could result in litigation matters, which could result in substantial costs and the diversion of management time and resources.

We may enter into future acquisitions and take certain actions in connection with such acquisitions that could adversely affect the price of our Common Stock.

As part of our growth strategy, we expect to review acquisition prospects that would implement our vertical integration strategy or offer other growth opportunities. From time to time, we may be in various stages of discussions and we may acquire businesses, products or technologies in the future. In the event of future acquisitions, we could:

- use a significant portion of our available cash;
- issue equity securities, which would dilute current stockholders' percentage ownership;
- incur substantial debt;
- incur or assume contingent liabilities, known or unknown;
- incur amortization expenses related to intangibles;
- incur large, immediate accounting write-offs;
- incur substantial expense and diversion of management attention, regardless of the success of the acquisition; and
- create goodwill and other intangible assets that may require impairment charges in the future.

Such actions by us could harm our operating results and adversely affect the price of our Common Stock.

Our directors, executive officers and significant stockholders hold a substantial portion of our Common Stock, which may lead to conflicts with other stockholders over corporate transactions and other corporate matters.

Our directors and executive officers beneficially own approximately 19% of our outstanding Common Stock, including options to purchase shares of our Common Stock that are exercisable within 60 days of December 31, 2020. These stockholders, acting together, will be able to influence significantly all matters requiring stockholder approval, including the election of directors and significant corporate transactions such as mergers or other business combinations. This control may delay, deter or prevent a third party from acquiring or merging with us, which could adversely affect the market price of our Common Stock.

We were formed in 1959, and our early corporate records are incomplete. As a result, we may have difficulty in assessing and defending against claims relating to rights to our Common Stock purporting to arise during periods for which our records are incomplete.

We were formed in 1959 under the laws of California and reincorporated in Delaware in 1968. We have had several transfer agents since being formed. In addition, our early corporate records, including our stock ledger, are incomplete. As a result, we may have difficulty in assessing and defending against claims relating to rights to our Common Stock purporting to arise during periods for which our records are incomplete.

Non-cash tender offers, debt equity swaps or equity exchanges to consummate our business activities are likely to have the effect of diluting the ownership interest of existing stockholders, including qualified stockholders who receive shares of our Common Stock in such business activities.

We, from time to time, may utilize non-cash tender offers, debt equity swaps or equity exchanges in accordance with the guidance and rules promulgated by the SEC to consummate our business activities. Such means to consummate our business activities will likely involve issuance of our Common Stock in large quantities and will subsequently dilute the ownership interest of existing stockholders, including stockholders who previously received shares of our Common Stock in such transactions. Any sales in the public market of the newly issued Common Stock could adversely affect prevailing market prices of our Common Stock. In addition, utilizing non-cash tender offers, debt equity swaps or equity exchanges may encourage short selling because such utilization could depress the market price of our Common Stock.

Anti-takeover effects of certain provisions of Delaware law and our Certificate of Incorporation and Bylaws, may hinder a take-over attempt.

Some provisions of Delaware law, our certificate of incorporation and bylaws may be deemed to have an anti-takeover effect and may delay or prevent a tender offer or takeover attempt, including those attempts that might result in a premium over the market price for the shares held by stockholders.

Section 203 of Delaware General Corporation Law may deter a take-over attempt.

Section 203 of the Delaware General Corporation Law prohibits transactions between a Delaware corporation and an “interested stockholder,” which is defined as a person who, together with any affiliates or associates, beneficially owns, directly or indirectly, 15.0% or more of the outstanding voting shares of a Delaware corporation. This provision prohibits certain business combinations between an interested stockholder and a Delaware corporation for a period of three years after the date the stockholder becomes an interested stockholder, unless:

- (i) either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder is approved by the corporation’s board of directors prior to the date the interested stockholder becomes an interested stockholder;
- (ii) the interested stockholder acquired at least 85.0% of the voting stock of the corporation (other than stock held by directors who are also officers or by certain employee stock plans) in the transaction in which the stockholder became an interested stockholder; or
- (iii) the business combination is approved by a majority of the board of directors and by the affirmative vote of 66-2/3% of the outstanding voting stock that is not owned by the interested stockholder.

For this purpose, business combinations include mergers, consolidations, sales or other dispositions of assets having an aggregate value in excess of 10.0% of the aggregate market value of the consolidated assets or outstanding stock of the corporation, and certain transactions that would increase the interested stockholder’s proportionate share ownership in the corporation.

Certificate of Incorporation and Bylaw Provisions may deter a take-over attempt.

Provisions of our certificate of incorporation and bylaws may have the effect of making it more difficult for a third party to acquire control of us. In particular, our certificate of incorporation authorizes our Board of Directors to issue, without further action by the stockholders, up to 1.0 million shares of preferred stock with rights and preferences, including voting rights, designated from time to time by the Board of Directors. The existence of authorized but unissued shares of preferred stock enables our Board of Directors to

render it more difficult or to discourage an attempt to obtain control of us by means of a merger, tender offer, proxy contest or otherwise.

GENERAL RISK FACTORS

The success of our business depends on the strength of the global economy and the stability of the financial markets, and any weaknesses in these areas may have a material adverse effect on our net sales, operating results and financial condition.

Weaknesses in the global economy and financial markets can lead to lower consumer discretionary spending and demand for items that incorporate our products in the consumer electronics, computing, industrial, communications and the automotive sectors. A decline in end-user demand can affect our customers' demand for our products, the ability of our customers to meet their payment obligations and the likelihood of customers canceling or deferring existing orders. Our net sales, operating results and financial condition could be negatively affected by such actions.

Production at our manufacturing facilities could be disrupted for a variety of reasons, including natural disasters and other extraordinary events, which could prevent us from producing enough of our products to maintain our sales and satisfy our customers' demands and could adversely affect our operating results and financial condition.

A disruption in production at our manufacturing facilities could have a material adverse effect on our business. Disruptions could occur for many reasons, including fire, floods, hurricanes, typhoons, droughts, tsunamis, volcanoes, earthquakes, disease or other similar natural disasters, unplanned maintenance or other manufacturing problems, labor shortages, power outages or shortages, telecommunications failures, strikes, transportation interruption, government regulation, terrorism or other extraordinary events, including epidemics (such as the outbreak of the COVID-19 virus) and related travel restrictions. Such disruptions may cause direct injury or damage to our employees and property and related internal controls with significant indirect consequences. Alternative facilities with sufficient capacity or capabilities may not be available, may cost substantially more or may take a significant time to start production, each of which could negatively affect our business and financial performance. If one of our key manufacturing facilities is unable to produce our products for an extended period of time, our sales may be reduced by the shortfall caused by the disruption, and we may not be able to meet our customers' needs, which could cause our customers to seek other suppliers. Such disruptions could have an adverse effect on our operating results and financial condition.

We may be adversely affected by any disruption in our information technology systems, which could adversely affect our cash flows, operating results and financial condition.

Our operations are dependent upon our information technology systems, which encompass all of our major business functions. We rely upon such information technology systems to manage and replenish inventory, to fill and ship customer orders on a timely basis, to coordinate our sales activities across all of our products and services and to coordinate our administrative activities. A substantial disruption in our information technology systems for any prolonged time period (arising from, for example, system capacity limits from unexpected increases in our volume of business, outages or delays in our service) could result in delays in receiving inventory and supplies or filling customer orders and adversely affect our customer service and relationships. Our systems might be damaged or interrupted by natural or man-made events or by computer viruses, physical or electronic break-ins and similar disruptions affecting the Internet generally. There can be no assurance that such delays, problems, or costs will not have a material adverse effect on our cash flows, operating results and financial condition.

As our operations grow in both size and scope, we will continuously need to improve and upgrade our systems and infrastructure while maintaining the reliability and integrity of our systems and infrastructure. The expansion of our systems and infrastructure will require us to commit substantial financial, operational and technical resources before the volume of our business increases, with no assurance that the volume of business will increase. In particular, we have upgraded our financial reporting system and are currently seeking to upgrade other information technology systems. These and any other upgrades to our systems and information technology, or new technology, now and in the future, will require that our management and resources be diverted from our core business to assist in compliance with those requirements. There can be no assurance that the time and resources our management will need to devote to these upgrades, service outages or delays due to the installation of any new or upgraded technology (and related customer issues), or the impact on the reliability of our data from any new or upgraded technology will not have a material adverse effect on our cash flows, operating results and financial condition.

A significant portion of our operations operate on a single Enterprise Resource Planning ("ERP") platform. To manage our international operations efficiently and effectively, we rely heavily on our ERP system, internal electronic information and communications systems and on systems or support services from third parties. Any of these systems are subject to electrical or telecommunications outages, computer hacking or other general system failure. It is also possible that future acquisitions will operate on different ERP systems and that we could face difficulties in integrating operational and accounting functions of new acquisitions. Difficulties in upgrading or expanding our ERP system or system-wide or local failures that affect our information processing could adversely affect our cash flows, operating results and financial condition and could result in material weaknesses or significant deficiencies in internal controls.

Terrorist attacks, or threats or occurrences of other terrorist activities, whether in the U.S. or internationally, may affect the markets in which our Common Stock trades, the markets in which we operate and our operating results and financial condition.

Terrorist attacks, or threats or occurrences of other terrorist or related activities, whether in the U.S. or internationally, may affect the markets in which our Common Stock trades, the markets in which we operate and our profitability. Future terrorist or related activities could affect our domestic and international sales, disrupt our supply chains and impair our ability to produce and deliver our products. Such activities could affect our physical facilities or those of our suppliers or customers. Such terrorist attacks could cause seaports or airports, to or through which we ship, to be shut down, thereby preventing the delivery of raw materials and finished goods to or from our manufacturing facilities in China, Taiwan and Germany and our wafer fabrication facilities in China, the U.S. and the U.K., or to our regional sales offices. Due to the broad and uncertain effects that terrorist attacks have had on financial and economic markets generally, we cannot provide any estimate of how these activities might negatively affect our future operating results and financial condition.

System security risks, data protection breaches, cyber-attacks and other related cybersecurity issues could disrupt our internal operations, and any such disruption could reduce our expected net sales, increase our expenses, damage our reputation and adversely affect our stock price.

Experienced computer programmers and hackers may be able to penetrate our security controls and misappropriate or compromise our confidential information or those of third parties, create system disruptions, compromise physical assets or intellectual property, or misappropriate monetary assets or cause shutdowns. Computer programmers and hackers also may be able to develop and deploy viruses, worms and other malicious software programs that attack our websites or exploit any security vulnerabilities of our websites and information systems. Our international operations and business relationships could exacerbate these potential risks. In September 2019, our anti-virus defenses identified a malware infection and brute force password attack. Breach resolution was accomplished by our internal IT staff. We do not believe that any confidential or proprietary information was exposed or that there was any material impact on production. In response to this cyber-intrusion, we engaged an information technology security company to assess the timetable and scope of the intrusion, identify any weaknesses in our IT systems, and assist in designing security measures to strengthen our protection against, and preparation for identifying and responding to, such attacks. We are reviewing this assessment and have enhanced and continue to enhance our security measures. Specific measures we have taken include strengthening our global network access control to further prevent unauthorized or non-compliant devices from accessing our internal networks and developing policies and procedures to more timely respond to intrusions.

The costs to the Company to eliminate or alleviate cyber or other security problems, bugs, viruses, worms, malicious software programs and security vulnerabilities could be significant, and our ongoing efforts to prevent and address these problems may not be successful. Such problems could result in interruptions, delays, cessation of service, extortionate demands to decrypt files and loss of existing or potential customers that may impede our sales, manufacturing, distribution or other critical functions and materially adversely affect our operating results, stock price and reputation.

We manage and store various proprietary information and sensitive or confidential data relating to our business and third party business. Breaches of our security measures or the accidental loss, inadvertent disclosure or unapproved dissemination of proprietary information or sensitive or confidential data about us or our partners or customers, including the potential loss, encryption or disclosure of such information or data or the unauthorized transfer of monetary assets as a result of fraud, trickery or other forms of deception, could expose us, our partners and customers or the individuals affected to a risk of loss or misuse of this information, extortionate demands to decrypt files, result in litigation and potential liability for us, damage our brand and reputation or otherwise harm our business. In addition, the cost and operational consequences of implementing further data protection measures could be significant. Delayed sales, significant costs or lost customers resulting from these system security risks, data protection breaches, cyber-attacks and other related cybersecurity issues could materially adversely affect our operating results, stock price and reputation.

Cyber and other security problems could originate from within the United States or in foreign countries. Our foreign operations expose us to additional cyber security risks compared to a company with a smaller international footprint.

Item 1B. Unresolved Staff Comments.

None

Item 2. Properties.

Our corporate headquarters are located in Plano, Texas. As of December 31, 2020, we own approximately 5.3 million square feet of property and lease approximately 3.1 million square feet of property, with leases expiring at various times between 2021 and 2028 and with land rights expiring in 2056. We also own and lease properties around the world for use as sales offices, design centers, research and development labs, warehouses, logistic centers, and manufacturing support. The size and/or location of these properties change from time to time based on business requirements. The table below sets forth the largest of the properties either owned or leased by the Company:

Primary use	Location	Sq. Ft.
Headquarters/R&D center	USA - Plano, TX	41,780
Regional sales office/Administrative office/R&D center/apartment	USA - Milpitas, California	86,321
Land use right/Manufacturing facilities/Administrative office/R&D center/Logistics	China - Chengdu	1,689,474
Regional sales office/R&D center/Warehouse	China - Hong Kong	360,395
Administrative office/Land use right/manufacturing facility/R&D center	China - Jinan, Shandong	1,059,907
Manufacturing facility/R&D center/Logistics/Dormitory/Manufacturing facility/Sales/Administrative office/Land use right	China - Shanghai	2,322,424
Regional sales office	China - Shenzhen	17,318
Administrative office/Logistics/Manufacturing/R&D center	England - Oldham	156,076
Manufacturing facility/R&D center	Germany - Neuhaus	52,508
Manufacturing facility/R&D center/Logistics/Administrative office	Scotland, Greenock	318,782
Manufacturing facility/R&D center/Logistics/Administrative office	Taiwan - Hsinbei	120,441
R&D center	Taiwan - Hsinchu	25,372
Regional sales office/Administrative office/Logistics/Regional Sales/Logistics	Taiwan - Taipei	52,348
Regional sales office/Administrative office/Logistics	Taiwan - Taoyuan	78,899
Manufacturing	China - Shanghai	168,381
Manufacturing	China - Wuxi	548,469
Manufacturing	Taiwan - Keelung	115,798
Manufacturing	Taiwan - Hsinchu	478,737

We believe our current facilities are adequate for the foreseeable future.

Item 3. Legal Proceedings.

From time to time, we are involved in various legal proceedings that arise in the normal course of business. While we intend to defend any lawsuit vigorously, we presently believe that the ultimate outcome of any current pending legal proceeding will not have any material adverse effect on our financial position, cash flows or operating results. However, litigation is subject to inherent uncertainties, and unfavorable rulings could occur. An unfavorable ruling could include monetary damages, which could impact our business and operating results for the period in which the ruling occurs or future periods. In addition, our foreign operations expose us to unique intellectual property technology risks compared to a company with fewer or no international operations. Such risks could lead to litigation or other disputes that would not be applicable to a company with limited or no international operations and could have a material and adverse effect on our financial condition and results of operations. See "Risk Factors – Risks Related to Our International Operations" in Part I, Item 1A of this Annual Report for a more detailed summary of the intellectual property technology risks associated with our international business operations.

Item 4. Mine Safety Disclosures.

Not Applicable.

PART II

Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Market Information

Our Common Stock is traded on the Nasdaq Global Select Market (“NasdaqGS”) under the symbol “DIOD.”

Holder

As of February 16, 2021, the approximate number of common stockholders was 226.

Dividends

We have never declared or paid dividends on our Common Stock, and currently do not intend to pay dividends in the foreseeable future as we intend to retain any earnings for future use in our business. Our U.S. banking facility permits us to pay dividends up to \$25.0 million per fiscal year to our stockholders so long as we have not defaulted at the time of such dividend and no default would result from declaring and paying such dividend. The payment of dividends is within the discretion of our Board of Directors, and will depend upon, among other things, our earnings, financial condition, capital requirements, and general business conditions.

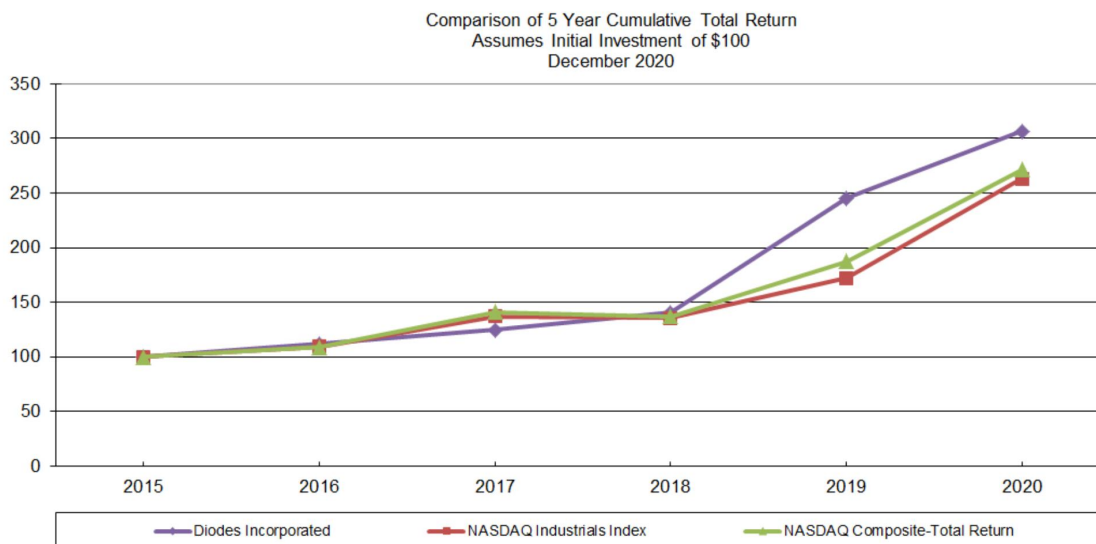
Securities Authorized for Issuance Under Equity Compensation Plans

The information regarding our equity compensation plans required to be disclosed by Item 201(d) of Regulation S-K is incorporated by reference from our 2021 definitive proxy statement, which we expect to file with the SEC in April 2021, in Item 12 of Part III of this Annual Report.

Performance Graph

The following graph compares the yearly percentage change in the cumulative total stockholder return of our Common Stock against the cumulative total return of the Nasdaq Composite and the Nasdaq Industrial Index for the five calendar years ending December 31, 2020. The graph is not necessarily indicative of future price performance.

The graph shall not be deemed incorporated by reference by any general statement incorporating by reference this Annual Report into any filing under the Securities Act of 1933 or under the Securities Exchange Act of 1934, except to the extent that the Company specifically incorporates this information by reference, and shall not otherwise be deemed filed under such Acts.



Source: Prepared by Zacks Investment Research, Inc. Used with permission. All rights reserved. Copyright 1980-2019.

The graph assumes \$100 invested on December 31, 2014 in our Common Stock, the stock of the companies in the Nasdaq Composite Index and the stock of companies in the Nasdaq Industrial Index, and that all dividends received within a quarter, if any, were reinvested in that quarter.

December 2020

		2015	2016	2017	2018	2019	2020
Diodes Incorporated	Return %		11.71	11.69	12.52	74.74	25.07
	Cum \$	100	111.71	124.76	140.38	245.30	306.79
NASDAQ Industrial Index	Return %		9.47	25.21	(1.13)	27.17	52.72
	Cum \$	100	109.47	137.07	135.52	172.34	263.20
NASDAQ Composite-Total Returns	Return %		8.87	29.64	(2.84)	36.69	44.92
	Cum \$	100	108.87	141.13	137.12	187.44	271.64

Issuer Purchases of Equity Securities

During the fourth quarter of 2020, as part of the Lite-On Semiconductor acquisition, the Company reacquired 7,765,778 shares of its Common Stock.

Item 6. Selected Financial Data.

The following selected consolidated financial data for the fiscal years ended December 31, 2016 through 2020, is qualified in its entirety by, and should be read in conjunction with, the other information and consolidated financial statements, including the notes thereto, appearing elsewhere herein. Certain immaterial amounts as presented in the accompanying consolidated financial statements have been reclassified to conform to 2020 financial statement presentation.

(In thousands, except per share data)

<i>Statement of Income Data</i>	Twelve Months Ended December 31,				
	2020	2019	2018	2017	2016
Net sales	\$ 1,229,215	\$ 1,249,130	\$ 1,213,989	\$ 1,054,204	\$ 942,162
Income from operations	134,332	200,608	154,482	79,409	37,991
Net income (loss) attributable to common stockholders	98,088	153,250	104,021	(1,805)	15,935
Earnings (loss) per share attributable to common stockholders					
Basic	\$ 1.92	\$ 3.02	\$ 2.09	\$ (0.04)	\$ 0.33
Diluted	\$ 1.88	\$ 2.96	\$ 2.04	\$ (0.04)	\$ 0.32
Number of shares used in computation:					
Basic	51,004	50,787	49,841	48,824	48,597
Diluted	52,133	51,860	50,935	48,824	49,789

<i>Balance Sheet Data</i>	As of December 31,				
	2020	2019	2018	2017	2016
Total assets	\$ 1,979,457	\$ 1,639,384	\$ 1,526,371	\$ 1,488,673	\$ 1,528,552
Working capital	514,225	524,637	480,814	415,162	547,409
Long-term debt, net of current portion	288,179	64,401	186,143	247,492	413,126
Total Diodes Incorporated stockholders' equity	963,820	1,106,424	931,463	831,504	776,019

<i>Cash Flow Data</i>	Twelve Months Ended December 31,				
	2020	2019	2018	2017	2016
Net cash and cash equivalents provided by operating activities	\$ 187,220	\$ 229,772	\$ 185,566	\$ 181,123	\$ 124,742
Capital expenditures	\$ 75,813	98,505	87,507	111,161	58,549

In addition, during the periods presented we made the following acquisitions considered significant to our operations (a) in 2020 we acquired LSC and (b) in 2019 we acquired GFAB.

Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations.

The following section discusses management’s view of the financial condition, results of operations and cash flows of Diodes Incorporated and its subsidiaries (collectively, “the Company,” “our Company,” “we,” “our,” “ours,” or “us”) and should be read together with the consolidated financial statements and the notes to consolidated financial statements included elsewhere in this Form 10-K.

The following discussion contains forward-looking statements and information relating to our Company. We generally identify forward-looking statements by the use of terminology such as “may,” “will,” “could,” “should,” “potential,” “continue,” “expect,” “intend,” “plan,” “estimate,” “anticipate,” “believe,” “project,” or similar phrases or the negatives of such terms. We base these statements on our beliefs as well as assumptions we made using information currently available to us. Such statements are subject to risks, uncertainties and assumptions, including those identified in Part I, Item 1A, “Risk Factors,” as well as other matters not yet known to us or not currently considered material by us. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may vary materially from those anticipated, estimated or projected. Given these risks and uncertainties, prospective investors are cautioned not to place undue reliance on such forward-looking statements. Forward-looking statements do not guarantee future performance and should not be considered as statements of fact.

You should not unduly rely on these forward-looking statements, which speak only as of the date of this Annual Report on Form 10-K. Unless required by law, we undertake no obligation to publicly update or revise any forward-looking statements to reflect new information or future events or otherwise. The Private Securities Litigation Reform Act of 1995 (the “Act”) provides certain “safe harbor” provisions for forward-looking statements. All forward-looking statements made in this Annual Report on Form 10-K are made pursuant to the Act.

This discussion and analysis does not address certain items in respect of fiscal 2018 in reliance on amendments to disclosure requirements adopted by the SEC in 2019. A discussion and analysis of fiscal 2018 may be found in [Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations of our Annual Report on Form 10-K for the fiscal year ended December 31, 2019, filed with the SEC on February 12, 2020](#), and such discussion and analysis is hereby incorporated into this Form 10-K by this reference .

Summary for the Twelve Months Ended December 31, 2020

- Revenue was \$1.23 billion, a decrease of 1.6% over the \$1.25 billion in 2019;
- Gross profit was \$431.1 million, a 7.4% decrease, compared to the \$465.8 million in 2019;
- Gross margin was 35.1% , a decrease of 220 basis points, compared to 37.3% in 2019;
- Operating income decreased 33.0% to \$134.3 million, or 10.9% of revenue, compared to \$200.6 million, or 16.1%, of revenue in 2019;
- Net income was a \$98.1 million, or \$1.88 per diluted share, compared to \$153.3 million, or \$2.96 per share, in 2019; and
- Achieved \$187.2 million cash flow from operations. We had \$75.8 million of capital expenditures, or 6.2% of revenue. Net cash flow was a positive \$61.0 million.

Summary of the Twelve Months Ended December 31, 2019

- Revenue grew to a record \$1.25 billion, an increase of 2.9% over the \$1.21 billion in 2018;
- Gross profit was a record \$465.8 million, a 7.0% increase, compared to the \$435.3 million in 2018;
- Gross margin improved 140 basis points to a record 37.3% from 35.9% in 2018;
- Operating income increased 29.9% to a record \$200.6 million, or 16.1% of revenue, compared to \$154.5 million, or 12.7%, of revenue in 2018;
- Net income was a record \$153.3 million, or \$2.96 per diluted share, compared to \$104.0 million, or \$2.04 per share, in 2018; and
- Achieved \$229.8 million cash flow from operations. We had \$98.5 million of capital expenditures, or 7.9% of revenue. Net cash flow was a positive \$17.7 million, which includes the net pay down of \$117.3 million of long-term debt.

Business Outlook and Factors Relevant to Our Results of Operations

In spite of the negative impact COVID-19 had on our fiscal year 2020 results, we continue to pursue our previously announced goals of achieving revenue of \$2.5 billion and gross margin of 40%, representing gross profit of \$1.0 billion, all by 2025. Acquisitions will continue to be a key part of our growth strategy to reach our 2025 revenue goal. We have a solid pipeline of designs and expanded customer relationships across all regions and product lines. The success of our business depends on, among other factors, the strength of the global economy and the stability of the financial markets, our customers' demand for our products, the ability of our customers to meet their payment obligations, the likelihood of customers not canceling or deferring existing orders, and the strength of consumers' demand for items containing our products in the end-markets we serve. We believe the long-term outlook for our business remains generally favorable despite the uncertainties in the global economy as we continue to execute on the strategy that has proven successful for us over the years. In November 2020, the Company completed the acquisition of LSC and in April 2019, we completed the acquisition of GFAB. See "Risk Factors – *The success of our business depends on the strength of the global economy and the stability of the financial markets, and any weaknesses in these areas may have a material adverse effect on our net sales, operating results and financial condition.*" in Part I, Item 1A of this Annual Report for additional information.

Description of Sales and Expenses

Net sales

The principal factors that have affected or could affect our net sales from period to period are:

- The condition of the economy in general and of the semiconductor industry in particular;
- Political tension, including the implementation of tariffs, among and between the countries in which we do business;
- Our customers' adjustments in their order levels;
- Changes in our pricing policies or the pricing policies of our competitors or suppliers;
- The addition or termination of key supplier relationships;
- The rate of introduction and acceptance by our customers of new products;
- Our ability to compete effectively with our current and future competitors;
- Our ability to enter into and renew key corporate and strategic relationships with our customers, vendors and strategic alliances;
- Changes in foreign currency exchange rates;
- A major disruption of our information technology infrastructure;
- Unforeseen catastrophic events, such as armed conflict, terrorism, fires, typhoons and earthquakes; and
- Any other disruptions, such as change in the political or governmental policies, labor shortages, unplanned maintenance or other manufacturing problems.

Cost of goods sold

Cost of goods sold includes manufacturing costs for our semiconductors and our wafers. These costs include raw materials used in our manufacturing processes as well as labor costs and overhead expenses. Cost of goods sold is also impacted by yield improvements, capacity utilization and manufacturing efficiencies. In addition, cost of goods sold includes the cost of products that we purchase from other manufacturers and sell to our customers. Cost of goods sold is also affected by inventory obsolescence if our inventory management is not efficient.

Selling, general and administrative

Selling, general and administrative expenses relate primarily to compensation and associated expenses for personnel in general management, sales and marketing, information technology, engineering, human resources, procurement, planning and finance, and sales commissions, as well as outside legal, investor relations, accounting, consulting and other operating expenses. Also included in selling, general and administrative expenses are acquisition costs from business combinations.

Research and development

Research and development expenses consist of compensation and associated costs of employees engaged in research and development projects, as well as materials and equipment used for these projects. Research and development expenses are primarily associated with our wafer facilities in China and the U.K. and our manufacturing facilities in Taiwan and China, as well as with our engineers in the China, U.K., U.S. and Taiwan. All research and development expenses are expensed as incurred.

Amortization of acquisition-related intangible assets

Amortization of acquisition-related intangible assets consists of assets such as developed technologies and customer relationships.

Impairment of fixed assets

Impairment of fixed assets consists of the impairment amount recognized as a result of the fair value of an asset being below its recorded value.

Restructuring

Restructuring are one-time charges that must be paid by the Company due to reorganizing or restructuring a part of the business.

Interest income / expense

Interest income consists of interest earned on our cash and investment balances. Interest expense consists of interest payable on our outstanding credit facilities and other debt instruments.

Gain (loss) on securities carried at fair value

We may hold investments in the form of common stock or some other similar equivalent and have elected fair value accounting treatment.

Foreign currency (loss) gain, net

This income account is used to show the amount gained or lost as a result of foreign currency transactions.

Income tax provision

Our global presence requires us to pay income taxes in a number of jurisdictions. See Note 12 of “Notes to Consolidated Financial Statements” for additional information.

Net income attributable to noncontrolling interest

This represents the minority investors’ share of our subsidiaries’ earnings.

Net income attributable to common stockholders

Net income attributable to common stockholders is net income less net income attributable to noncontrolling interest.

Results of Operations

The following table sets forth, for the periods indicated, the percentage that certain items in the statements of income bear to net sales:

	Percent of Net Sales	
	Twelve Months Ended December 31,	
	2020	2019
Net sales	100.0%	100.0%
Cost of goods sold	(64.9)	(62.7)
Gross profit	35.1	37.3
Operating expenses	(24.1)	(21.2)
Income from operations	10.9	16.1
Interest income	0.1	0.2
Interest expense	(1.0)	(0.6)
Foreign currency (loss) gain, net	(0.8)	(0.3)
Other income (expenses)	0.5	0.6
Income before income taxes and noncontrolling interest	9.8	15.9
Income tax provision	1.7	3.5
Net income	8.1	12.3
Net (income) loss attributable to noncontrolling interest	(0.1)	(0.1)
Net income attributable to common stockholders	8.0	12.3

The following discussion explains in greater detail our consolidated operating results and financial condition. This discussion should be read in conjunction with the consolidated financial statements and notes thereto appearing elsewhere in this Annual Report (*in thousands*).

	Twelve Months Ended			
	December 31,		Increase/(Decrease)	% Change
	2020	2019		
Net sales	\$ 1,229,215	\$ 1,249,130	\$ (19,915)	(1.6%)
Cost of goods sold	798,094	783,323	14,771	1.9%
Gross profit	431,121	465,807	(34,686)	(7.4%)
Operating expenses				
Selling, general and administrative	185,067	181,343	3,724	2.1%
Research and development	94,288	88,517	5,771	6.5%
Amortization of acquisition-related intangible assets	16,261	18,041	(1,780)	(9.9%)
Loss (gain) on disposal of fixed assets	106	(24,429)	24,535	(100.4%)
Other operating income	1,067	1,727	660	38.2%
Other income (expense)				
Interest income	1,066	2,189	(1,123)	(51.3%)
Interest expense	(11,662)	(7,893)	3,769	47.8%
Foreign currency loss	(9,814)	(3,737)	6,077	162.6%
Other income	6,419	7,079	(660)	(9.3%)
Income tax provision	21,112	44,131	(23,019)	(52.2%)

Net Sales

Net sales decreased for the twelve months ended December 31, 2020, compared to the same period last year due to the negative effect of COVID-19 on the global economy and our business. This decrease in net sales was partially offset by \$16.9 million of net sales from LSC.

The table below sets forth our revenue as a percentage of total revenue by end-user market:

	Twelve Months Ended		
	December 31,		
	2020	2019	2018
Industrial	23%	28%	26%
Consumer electronics	25%	23%	25%
Communications	21%	23%	24%
Computing	20%	16%	17%
Automotive	11%	10%	9%

Cost of Goods Sold

Cost of goods sold increased approximately \$14.8 million for the twelve months ended December 31, 2020 compared to the same period last year, primarily as a result of operations at GFAB for four quarters of 2020 compared to three quarters of 2019 and the one month of operations at LSC during 2020. As a percent of sales, cost of goods sold was 64.9% for the twelve months ended December 31, 2020, compared to 62.7% for the same period last year. Average unit cost increased 1.5% for the twelve months ended December 31, 2020, compared to the same period last year, due to lower capacity utilization for the year, driven by COVID-19 pandemic related manufacturing plant closures and the associated slowdown in customer demand in early 2020. For the twelve months ended December 31, 2020, gross profit decreased approximately 7.4% when compared to the same period last year. Gross profit margin for the twelve month periods ended December 31, 2020 and 2019, was 35.1% and 37.3%, respectively.

Operating expenses

Operating expenses for the twelve months ended December 31, 2020 increased approximately \$31.6 million, or 11.9%, compared to the same period last year. A significant contributing factor to the increase in 2020 compared to 2019 was a \$24.3 million one-time gain we realized in 2019 upon selling land. The land was acquired in past years in anticipation of building a new corporate headquarters building in Texas. Selling, general and administrative expenses ("SG&A") increased approximately \$3.7 million. The increase in SG&A was driven by increases in wages and benefits and freight and duty charges, partially offset by reductions in travel and entertainment expenses. Research and development expenses ("R&D") increased approximately \$5.8 million primarily due to increases in wages and benefits and depreciation, associated with new product and new process development activities. Amortization of acquisition-related intangibles decreased approximately \$1.8 million reflecting the overall reduction in the balance of intangible assets subject to amortization. SG&A, as a percentage of sales, was 15.1% and 14.5% for the twelve-month periods ended December 31, 2020 and 2019, respectively. R&D, as a percentage of sales, was 7.7% and 7.1% for the twelve-month periods ended December 31, 2020 and 2019, respectively.

Other (expense)/income

Interest income decreased \$1.1 million for the twelve months ended December 31, 2020, due to a lower amount of invested funds. Interest expense increased \$3.8 million or 47.8% for the twelve months ended December 31, 2020. The increase in interest expense for the twelve months ended December 31, 2020 was due to higher levels of debt resulting from the draws on our U.S. credit facility to finance the closing of the LSC acquisition. The increase in interest expense due to higher levels of debt was partially offset by lower interest rates. Foreign currency losses increased \$6.1 million during the twelve months ended December 31, 2020.

Income tax provision

We recognized income tax expense of approximately \$21.1 million for the twelve months ended December 31, 2020, and income tax expense of approximately \$44.1 million for the twelve months ended December 31, 2019, resulting in effective income tax rates of 17.5 % and 22.3%, respectively. The decrease in the effective tax rate for 2020 compared to 2019 is primarily attributable to decrease in non-U.S. withholding taxes. Our undistributed foreign earnings continue to be indefinitely reinvested in foreign operations, with limited exceptions related to earnings of European and Asian subsidiaries. Any future distributions of foreign earnings will not be subject to additional U.S. income tax, but may be subject to foreign withholding taxes. As of December 31, 2020, our foreign subsidiaries held approximately \$267 million of cash, cash equivalents and investments of which approximately \$9.5 million would be subject to foreign withholding tax if distributed outside the country in which the related earnings were generated.

Financial Condition

Liquidity and Capital Resources

Our primary sources of liquidity are cash and cash equivalents, short-term investments, funds from operations and, if necessary, borrowings under our credit facilities.

Liquidity requirements

Our primary liquidity requirements have been to meet our capital expenditure needs and to fund ongoing operations. For 2020 and 2019 our working capital was \$514.2 million and \$524.6 million, respectively. In 2020, our working capital decreased due to increases in short-term debt and other current liabilities assumed as a result of the LSC acquisition. We expect cash generated by our operations together with existing cash, cash equivalents, short-term investments and available credit facilities to be sufficient to satisfy our working capital needs, capital asset purchases, outstanding commitments and other liquidity requirements associated with our existing operations for at least the next 12 months.

Short-term investments

As of December 31, 2020, we had short-term investments of approximately \$6.1 million. These investments are highly liquid with maturity dates greater than three months at the date of purchase. We generally can access these investments in a relatively short amount of time but in doing so we generally forfeit a portion of interest income.

Short-term debt

Our Asia subsidiaries maintain credit facilities with several financial institutions through our foreign entities worldwide totaling \$307.1 million. At December 31, 2020, borrowings were \$140.6 million and letters of credit were \$0.5 million under our Asia credit facilities. Other than two Taiwanese credit facilities that are collateralized by assets, our foreign credit lines are unsecured, uncommitted, repayable on demand, terminable by the lender at any time and contain no restrictive covenants. These credit facilities bear interest at LIBOR or similar indices plus a specified margin. Interest payments are due monthly on outstanding amounts under the credit lines.

Long-term debt

On May 29, 2020, the Company, Diodes Holding B.V. (the “Foreign Borrower” and, collectively with the Company, the “Borrowers”), and certain subsidiaries of the Company as guarantors, entered into a Second Amended and Restated Credit Agreement (the “Second Amended and Restated Credit Agreement”) that amends and restates that certain Amended and Restated Credit Agreement dated as of October 26, 2016 (as amended, modified and/or supplemented from time to time prior to May 29, 2020, the “Existing Credit Agreement”). On December 31, 2020, Diodes Holding B.V. merged into Diodes Holdings UK Limited, which following the merger became the Foreign Borrower under the Credit Agreement, and in connection with the merger, the parties to the Second Amended and Restated Credit Agreement entered into a Consent and Amendment No. 2 to Second Amended and Restated Credit Agreement (“Consent and Amendment No. 2”; the Second Amended and Restated Credit Agreement as amended by Consent and Amendment No. 2 is referred to as the “Credit Agreement”). Certain capitalized terms used in this description of the Credit Agreement have the meanings given to them in the Credit Agreement, the current form of which is set forth in Exhibit A to Consent and Amendment No. 2, which is attached as an exhibit to this report. The Company analyzed the amendment and restatement of the Existing Credit Agreement pursuant to the guidance in ASC No. 470-50, Debt—Modifications and Extinguishments. The Company determined that certain lenders had changes in cash flows which were substantially different as a result of the amendment and

restatement of the Existing Credit Agreement, which resulted in a debt extinguishment of \$52.2 million and a loss on extinguishment and third-party fees of \$0.7 million being expensed in the nine-month period ended September 30, 2020.

The Second Amended and Restated Credit Agreement rebalanced the Company's then-existing senior credit facilities under the Existing Credit Agreement from (x) aggregate credit facilities of \$500,000,000, consisting of (A) a \$250,000,000 revolving senior credit facility, which included a \$10,000,000 swing line sublimit, a \$10,000,000 letter of credit sublimit, and a \$20,000,000 alternative currency sublimit, and (B) a \$250,000,000 term loan to (y) aggregate credit facilities of \$670,000,000 consisting of (A) an acquisition draw term commitment of \$340,000,000 (the "Acquisition Draw Term Commitment"), (B) an initial term commitment of \$180,000,000 (the "Initial Term Commitment" and, together with the Acquisition Draw Term Commitment, the "Term Loan") and (C) a \$150,000,000 revolving senior credit facility (the "Revolver"), which includes a \$20,000,000 uncommitted swing line sublimit, a \$10,000,000 letter of credit sublimit, and a \$40,000,000 alternative currency sublimit.

The Revolver and the Term Loan mature on May 29, 2023 (the "Maturity Date"). Both the term loan portion and the revolving portion of the Credit Agreement bear an interest rate at LIBOR or similar other indices plus a specified margin. The Company used a portion of the proceeds available under the Revolver and the Term Loan (i) to finance the Company's acquisition of Lite-On Semiconductor Corporation, which is described more fully elsewhere in this report, (ii) to refinance certain existing indebtedness of the Borrowers and their subsidiaries under the Existing Credit Agreement and (iii) for working capital, capital expenditures, and other lawful corporate purposes, including, without limitation, financing permitted acquisitions.

The Credit Agreement contains certain financial and non-financial covenants, including, but not limited to, a maximum Consolidated Leverage Ratio, a minimum Consolidated Fixed Charge Coverage Ratio, and restrictions on liens, indebtedness, investments, fundamental changes, dispositions, and restricted payments (including dividends and share repurchases). These covenants are generally similar to the corresponding covenants in the Existing Credit Agreement, except that certain amounts permitted as exceptions to negative covenants restricting liens, indebtedness, investments, dispositions and restricted payments have been revised, and additional exceptions to certain negative covenants have been added, including increased capacity for certain intercompany Indebtedness and Investment (including existing Lite-On Indebtedness), and the right to enter into certain securitization transactions and receivables facilities, subject to limitations set forth in the Credit Agreement. Furthermore, under the Credit Agreement, restricted payments, including dividends and share repurchases, are permitted in certain circumstances, including while the pro forma Consolidated Leverage Ratio is, both before and after giving effect to any such restricted payment, at least 0.25 to 1.00 less than the maximum permitted under the Credit Agreement.

Capital expenditures and investments

In 2020 and 2019, our capital expenditures were approximately \$75.8 million and \$96.2 million, respectively, which includes approximately \$15.4 million and \$9.3 million of capital expenditures related to the investment agreement with the Management Committee of the Chengdu Hi-Tech Industrial Development Zone (the "CDHT") for 2020 and 2019, respectively. Our capital expenditures for these periods were primarily related to manufacturing expansion in our facilities in China and, to a lesser extent, our office buildings. Capital expenditures in 2020 were approximately 6.2% of our net sales.

In 2010, we announced an investment agreement with the Management Committee of the CDHT. Under this agreement, we formed a joint venture with a Chinese partner, Chengdu Ya Guang Electronic Company Limited ("Ya Guang"), to establish a semiconductor assembly and test facility in Chengdu, China. In December 2016, we increased our investment and currently own approximately 98% of the joint venture entity. The CDHT granted the joint venture a 50 year land lease, provides corporate and employee tax incentives, tax refunds, subsidies and other financial support. We believe that this will be a long-term, multi-year project that will provide us additional capacity as needed. As of December 31, 2020, we have invested \$193.7 million in this joint venture, primarily for infrastructure, buildings and equipment related capital expenditures.

The Company's restricted cash primarily consisted of the cash required to be on deposit under contractual agreements with banks to support outstanding loan and import/export guarantees. As of December 31, 2020, restricted cash of \$52.5 million was pledged as collateral for issuance of bank loans, bank acceptance notes and letters of credit.

Our foreign operations expose us to unique intellectual property technology risks compared to a company with fewer or no international operations. For example, we are exposed to potential cyber security breaches that may target our employees or infrastructure outside the United States. These risks may result in material and adverse impacts on our financial condition and results of operations. See "Risk Factors – Risks Related to Our International Operations" in Part I, Item 1A of this Annual Report for a more detailed summary of the intellectual property technology risks associated with our international business operations.

Discussion of Cash Flows

Cash and cash equivalents, including restricted cash, increased approximately \$61.0 million to \$320.5 million in 2020 from \$259.5 million in 2019. The table below sets forth summary information from our statements of cash flows:

	Twelve Months Ended December 31,		
	2020	2019	Change
Net cash provided by operating activities	\$ 187,220	\$ 229,772	\$ (42,552)
Net cash used in investing activities	(106,772)	(100,426)	(6,346)
Net cash used in financing activities	(54,302)	(112,432)	58,130
Effect of exchange rates on cash and cash equivalents, including restricted cash	34,876	760	34,116
Net increase in cash and cash equivalents, including restricted cash	\$ 61,022	\$ 17,674	\$ 43,348

Operating Activities

Net cash provided by operating activities for 2020 was approximately \$187.2 million, due primarily to \$99.2 million of net income, \$108.0 million in depreciation and amortization of intangible assets and \$25.3 million from non-cash share-based compensation. These increases were partially offset by a decrease in deferred taxes of \$14.5 million, and a net decrease in operating capital assets and liabilities of \$31.4 million.

Investing Activities

Net cash used in investing activities for 2020 was approximately \$106.8 million, due to the purchase of property, plant and equipment of \$75.8 million, acquisitions net of cash acquired of \$24.6 million, primarily LSC, and \$6.1 used for purchase of equity securities.

Financing Activities

Net cash used in financing activities for 2020 was approximately \$54.3 million, due \$296.8 million related to the Diodes shares reacquired in connection with the LSC acquisition and the payment of taxes on net share settlement of \$8.3 million. These outflows of cash were partially offset by an inflow from a net increase in borrowing of \$249.1 million to close the LSC acquisition.

Debt instruments

The U.S. credit facility contains certain financial and non-financial covenants, including, but not limited to, a maximum consolidated leverage ratio, a minimum consolidated fixed charge coverage ratio, and restrictions on liens, indebtedness, investments, fundamental changes, dispositions, and restricted payments (including dividends and share repurchases).

As of December 31, 2020, our Asia subsidiaries had unused and available credit lines of up to an aggregate of approximately \$166.0 million, with several financial institutions. In some cases, our foreign credit lines are unsecured, uncommitted and may be repayable on demand, except for two Taiwanese credit facilities that are collateralized by assets. Our foreign credit lines bear interest at LIBOR or similar indices plus a specified margin. At December 31, 2020, \$140.6 million was outstanding under these lines of credit. In addition to our credit lines, our 51% owned subsidiary, ERIS Technology Corporation ("ERIS"), has long-term debt of \$30.0 million on a long-term basis from local Taiwan banks. The ERIS debt matures in various periods from 2021 through 2033. See "Liquidity and Capital Resources" above and Note 8 of "Notes to Consolidated Financial Statements" of this Annual Report for additional information.

Off-Balance Sheet Arrangements

We do not have any transactions, arrangements and other relationships with unconsolidated entities that will affect our liquidity or capital resources. We have no special purpose entities that provided off-balance sheet financing, liquidity or market or credit risk support, nor do we engage in leasing, hedging or research and development services, that could expose us to liability that is not reflected on the face of our financial statements.

Contractual Obligations

The following table represents our contractual obligations as of December 31, 2020 (in thousands):

	Total	Less than 1 year	1-3 years	4-5 years	More than 5 years
Debt	\$ 312,247	\$ 21,861	\$ 272,514	\$ 17,872	\$ -
Interest on long-term debt ¹	22,810	8,048	14,551	211	-
Operating leases	44,795	11,842	15,618	6,101	11,234
Finance leases	175	151	21	3	-
Defined benefit contribution obligations	24,031	3,004	6,008	6,008	9,011
Purchase obligations	74,911	74,911	-	-	-
Total obligations	<u>\$ 478,969</u>	<u>\$ 119,817</u>	<u>\$ 308,712</u>	<u>\$ 30,195</u>	<u>\$ 20,245</u>

(1) Interest on long-term debt assumes there are no changes in current interest rates and no changes in long-term debt from the balance outstanding as of December 31, 2020, other than required principal payments. The Revolver and Term Loan mature in May 2023.

Tax liabilities are not included in the above contractual obligations as we cannot make reasonable estimates of the amount and period in which those tax liabilities would be paid. See “Accounting for income taxes” below and Note 12 of “Notes to Consolidated Financial Statements” of this Annual Report for additional information. In addition to these purchase commitments, we have been party to an agreement in which we were obligated to make equity investments and capital investments in our Chengdu facilities. That agreement is expired, but we anticipate renewing it later in 2021.

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with generally accepted principles in the United States of American (“U.S. GAAP”) requires that management make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of net sales and expenses during the reporting period. On an ongoing basis, we evaluate our estimates, which are based upon historical experiences, market trends and financial forecasts and projections, and upon various assumptions that management believes to be reasonable under the circumstances at that certain point in time. Actual results may differ, significantly at times, from these estimates under different assumptions or conditions.

We believe the following critical accounting policies and estimates affect the significant estimates and judgments we use in the preparation of our consolidated financial statements, and may involve a higher degree of judgment and complexity than others.

Revenue recognition

We generate revenue primarily through the sale of semiconductor products either directly to a customer or to a distributor. We typically have contracts with our direct customers and distributors and in determining whether a contract exists we evaluate the terms of the agreement, the relationship with the direct customer or distributor and their ability to pay.

Under revenue recognition guidance, a performance obligation is a promise in a contract to transfer a distinct good or service to the customer, and is considered the unit of account. A contract’s transaction price is allocated to each distinct performance obligation and recognized as revenue when, or as, the performance obligation is satisfied. Generally speaking, our primary performance obligation is the delivery of a specific good through the purchase order submitted by our customer and revenue is recognized at the time of shipment or delivery, depending on the contract terms.

We record allowances/reserves for the following items: (i) ship and debit, which arise when we, from time to time based on market conditions, issue credit to certain distributors upon their shipments to their end customers; (ii) stock rotation, which are contractual obligations that permit certain distributors, up to four times a year, to return a portion of their inventory based on historical shipments to them in exchange for an equal and offsetting order; and (iii) price protection, which arise when market conditions cause average selling prices to decrease and we issue credit to certain distributors on their inventory. Ship and debit accruals comprise both claims in process and anticipated claims arising from the eventual sale of distribution inventory that is subject to claim activity. Ship and debit reserves are recorded as a reduction to net sales with a corresponding reduction to accounts receivable. Stock rotation reserves are recorded as a reduction to net sales with a corresponding reduction to cost of goods sold for the estimated cost of inventory that is expected to be returned. Price protection reserves are recorded as a reduction to net sales with a corresponding increase in accrued liabilities.

We also assess our customer’s ability and intention to pay, which is based on a variety of factors including our customer’s historical payment experience, their financial condition and the condition of the global economy and financial markets. Payment terms and conditions typically vary depending on negotiations with the customer.

Certain customers have limited rights of return or are entitled to price adjustments on products held in their inventory or upon sale to their end customers. We reduce net sales in the period of sale for estimates of product returns, distributor price adjustments and other allowances. Our reserve estimates are based upon historical data as well as projections of sales, distributor inventories, price adjustments, average selling prices and market conditions. Actual returns and adjustments could be significantly different from our estimates and provisions, resulting in an adjustment to net sales.

Inventories

Inventories are stated at the lower of cost or net realizable value. Cost is determined principally by the first-in, first-out method. On an ongoing basis, we evaluate our inventory for obsolescence and slow-moving items. This evaluation includes analysis of sales levels, sales projections, and purchases by item, as well as raw material usage related to our manufacturing facilities. If our review indicates a reduction in utility below carrying value, we reduce our inventory to a new cost basis. If future demand or market conditions are different than our current estimates, an inventory adjustment may be required, and would be reflected in cost of goods sold in the period the revision is made.

Accounting for income taxes

As part of the process of preparing our consolidated financial statements, we are required to estimate our income taxes in each of the tax jurisdictions in which we operate. This process involves using an asset and liability approach whereby deferred tax assets and liabilities are recorded for differences in the financial reporting bases and tax bases of our assets and liabilities. A valuation allowance is provided against deferred tax assets unless it is more likely than not that such deferred tax assets will be realized. This analysis requires considerable judgment and is subject to change to reflect future events and changes in the tax laws.

The benefit of a tax position is recognized only if it is more likely than not that the tax position would be sustained based on its technical merits in a tax examination, using the presumption the tax authority has full knowledge of all relevant facts regarding the position. The amount of benefit recognized is the largest amount of tax benefit that is greater than 50% likely of being realized on ultimate settlement with the tax authority. For tax positions not meeting the more likely than not test, no tax benefit is recorded.

Goodwill and other indefinite lived intangible assets

Goodwill and other indefinite lived assets are tested for impairment on an annual basis or when an event or changes in circumstances indicate that its carrying value may not be recoverable. Goodwill impairment is tested at the reporting unit level, which is defined as an operating segment or one level below the operating segment. Diodes has one operating segment. Goodwill is reviewed for impairment using either a qualitative assessment or a quantitative goodwill impairment test. If we choose to perform a qualitative assessment and determine the fair value more likely than not exceeds the carrying value, no further evaluation is necessary. When we perform the quantitative goodwill impairment test, we compare fair value to carrying value, which includes goodwill. If fair value of exceeds carrying value, the goodwill is not considered impaired. If the carrying value is higher than the fair value, the difference would be recognized as an impairment loss.

Business Combinations

We account for acquired businesses using the acquisition method of accounting, which requires that once control of a business is obtained, 100% of the assets acquired and liabilities assumed, including amounts attributed to noncontrolling interests, be recorded at the date of acquisition at their respective fair values. Any excess of the purchase price over the estimated fair values of the net assets acquired is recorded as goodwill.

For significant acquisitions we may use independent third-party valuation specialists to assist us in determining the fair value of assets acquired and liabilities assumed.

Significant judgment is often required in estimating the fair value of assets acquired and liabilities assumed. The Company makes estimates and assumptions about conditions of the assets, other costs not captured in the base costs, and consideration for entrepreneurial profit, depreciation, functional obsolescence, and economic obsolescence allocated to the various property, plant and equipment categories considering the perspective of marketplace participants.

While management believes those expectations and assumptions are reasonable, they are inherently uncertain. Unanticipated market or macroeconomic events and circumstances may occur, which could affect the accuracy or validity of the estimates and assumptions, which could result in subsequent impairments.

Recently Issued Accounting Pronouncements

See Note 1 of "Notes to Consolidated Financial Statements" of this Annual Report for additional information regarding the status of recently issued accounting pronouncements.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

Foreign Currency Risk

We face exposure to adverse movements in foreign currency exchange rates, primarily in Asia and Europe. Our foreign currency risk may change over time as the level of activity in foreign markets grows and could have a material adverse impact upon our financial results. Certain of our assets, including certain bank accounts and accounts receivable, and liabilities exist in non-U.S. dollar denominated currencies, which are sensitive to foreign currency exchange fluctuations. These currencies are principally the Chinese Yuan, the Taiwanese dollar, the Euro, and the British Pound Sterling and, to a lesser extent, the Japanese Yen and the Hong Kong dollar. We have entered into hedging arrangements designed to mitigate foreign currency fluctuations. See “Risk Factors – *We are subject to foreign currency risk as a result of our international operations.*” in Part I, Item 1A of this Annual Report for additional information.

Foreign Currency Transaction Risk

We are subject to foreign currency risk arising from intercompany transactions that are expected to be settled in cash in the near term where the cash balances are held in denominations other than our subsidiaries’ functional currency. If exchange rates weaken against the functional currency, we would incur a remeasurement gain in the value of the cash balances, and if the exchange rates strengthen against the functional currency, we would incur a remeasurement loss in the value of the cash balances, assuming the net monetary asset balances remained constant. Our ultimate realized gain or loss with respect to currency fluctuations will generally depend on the size and type of transaction, the size and currencies of the net monetary assets and the changes in the exchange rates associated with these currencies. Based on balances at December 31, 2020, if the Chinese Yuan, the Taiwanese dollar, the Euro and the British Pound Sterling were to weaken (or strengthen) by 1.0% against the U.S. dollar, we would experience currency transaction gain (or loss) of approximately \$2.4 million (partially offset by any foreign currency hedges). Net foreign exchange transaction gains (or losses) are included in other income and expense.

Foreign Currency Translation Risk

For our subsidiaries that maintain their books in a foreign currency, fluctuations in that foreign currency will impact the amount of total assets and liabilities that we report for our foreign subsidiaries upon the translation of these amounts into U.S. dollars. All elements of the subsidiaries’ financial statements, except for stockholders’ equity accounts, are translated using a currency exchange rate. Assets and liabilities denominated in foreign currencies are translated at the exchange rate on the balance sheet date. Income and expense accounts denominated in foreign currencies are translated at the weighted-average exchange rate during the period presented. Resulting translation adjustments are recorded as a separate component of accumulated other comprehensive income or loss within stockholders’ equity in the consolidated balance sheets, which are accumulated in this account until sale or liquidation of the foreign entity investment, at which time they are reported as adjustments to the gain or loss on sale of investment.

Foreign Currency Denominated Defined Benefit Plans

We have a contributory defined benefit plan that covers certain employees in the U.K., which is closed to new entrants and frozen with respect to future benefit accruals. The retirement benefit is based on the final average compensation and service of each eligible employee. December 31 is our annual measurement date, and on the measurement date, defined benefit plan assets are determined based on fair value. Defined benefit plan assets consist primarily of high quality corporate bonds and stocks that are denominated in the currency in which the benefits will be paid and that have terms to maturity approximating to the terms of the related pension liability. The net pension and supplemental retirement benefit obligations and the related periodic costs are based on, among other things, assumptions of the discount rate, estimated return on plan assets and mortality rates. These obligations and related periodic costs are measured using actuarial techniques and assumptions. The projected unit credit method is the actuarial cost method used to compute the pension liabilities and related expenses.

As of December 31, 2020, the plan was underfunded and a liability of approximately \$27.4 million was reflected in our consolidated financial statements as a noncurrent liability. The amount recognized in accumulated other comprehensive income was a net loss of \$50.3 million. If the British Pound Sterling were to (weaken) or strengthen by 1.0% against the U.S. dollar, we would experience currency translation liability (decrease) or increase of less than \$0.5 million. The weighted-average discount rate assumption used to determine benefit obligations as of December 31, 2020, was 1.3%. A 0.2% increase/(decrease) in the discount rate used to calculate the net period benefit cost for the year would reduce/increase annual benefit cost by less than \$0.5 million. A 0.2% increase/(decrease) in the discount rate used to calculate the year-end projected benefit obligation would increase/(decrease) the year-end projected benefit obligation by approximately \$7.1 million. The expected return on plan assets is determined based on historical and expected future returns of the various assets classes and as such, each 1.0% increase/(decrease) in the expected rate of return assumption would increase/(decrease) the net period benefit cost by approximately \$1.3 million. The asset value of the defined benefit plan has been volatile in recent years due primarily to wide fluctuations in the U.K. equity markets and bond markets. See “Risk Factors – *Changes in actuarial assumptions for our defined benefit plan could increase the volatility of the plan’s asset value, require us to increase cash contributions to the plan and have a negative impact on our cash flows, operating results and financial condition*” in Part I, Item 1A of this Annual Report for additional information.

Interest Rate Risk

We have credit facilities with financial institutions in the U.S., Asia and Europe as well as other debt instruments with interest rates equal to LIBOR or similar indices plus a negotiated margin. A rise in interest rates could have an adverse impact upon our cost of working capital and our interest expense. Through the use of financial instruments, we have hedges in place designed to offset the interest rate risk for \$140.0 million of floating rate debt. As a matter of policy, we do not enter into derivative transactions for speculative purposes. As of December 31, 2020, our outstanding principal debt included \$282.3 million outstanding under our revolving senior credit facility and term loan, \$140.6 million outstanding under foreign long term liabilities and \$0.5 million used for import and export guarantees and bank acceptance notes. Based on our debt balances at December, 31, 2020, an increase or decrease in interest rates by 1.0% for the year on our credit facilities would increase or decrease our annual interest rate expense by less than \$1.7 million, net of the amounts realized from our interest rate swaps. See “Risk Factors,” – “*We are subject to interest rate risk that could have an adverse effect on our cost of working capital and interest expenses, which could adversely affect our business, operating results and financial condition*” in Part I, Item 1A of this Annual Report for additional information.

Political Risk

We have a significant portion of our assets in mainland China, Taiwan and the U.K. The possibility of political conflict between any of these countries or with the U.S. could have a material adverse impact upon our ability to transact business through these important business channels and to generate profits. See “Risk Factors” – *Risks Related to our International Operations*” in Part I, Item 1A of this Annual Report for additional information.

Inflation Risk

Inflation did not have a material effect on net sales or net income in fiscal year 2019. A significant increase in inflation could affect future performance.

Credit Risk

The success of our business depends, among other factors, on the strength of the global economy and the stability of the financial markets, which in turn affect our customers’ demand for our products, the ability of our customers to meet their payment obligations, the likelihood of customers canceling or deferring existing orders and the strength of consumer demand for items containing our products in the end-markets we serve. We provide credit to customers in the ordinary course of business and perform ongoing credit evaluations, while at times providing extended terms. We believe that our exposure to concentrations of credit risk with respect to trade receivables is largely mitigated by dispersion of our customers over various geographic areas, operating primarily in electronics manufacturing and distribution. We believe our allowance for doubtful accounts is sufficient to cover customer credit risks.

Item 8. Financial Statements and Supplementary Data.

See Part IV, Item 15 “Exhibits and Financial Statement Schedules” for our consolidated financial statements and the notes and schedules thereto filed as part of this Annual Report.

Item 9. Changes In and Disagreements With Accountants on Accounting and Financial Disclosure.

Not Applicable.

Item 9A. Controls and Procedures.

Disclosure Controls and Procedures

Our Chief Executive Officer, Keh-Shew Lu, and Chief Financial Officer, Brett R. Whitmire, with the participation of our management, carried out an evaluation as of December 31, 2020, of the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) and Rule 15d-15(e) of the Securities Exchange Act of 1934, as amended). Based upon that evaluation, our Chief Executive Officer and our Chief Financial Officer believe that, as of the end of the period covered by this report, our disclosure controls and procedures are effective at the reasonable assurance level to ensure that information required to be included in this report is:

- recorded, processed, summarized and reported within the time period specified in the Commission’s rules and forms and
- accumulated and communicated to our management, including the Chief Executive Officer and the Chief Financial Officer, to allow timely decisions regarding disclosure.

Disclosure controls and procedures, no matter how well designed and implemented, can provide only reasonable assurance of achieving an entity’s disclosure objectives. The likelihood of achieving such objectives is affected by limitations inherent in disclosure controls and procedures. These include the fact that human judgment in decision-making can be faulty and that breakdowns in internal control can occur because of human failures such as simple errors, mistakes or intentional circumvention of the established processes.

Management's Annual Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is a process designed by, or under the supervision of, our Chief Executive Officer and Chief Financial Officer and implemented by our Board of Directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP.

Our internal control over financial reporting includes those policies and procedures that: (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with U.S. GAAP, and that receipts and expenditures of ours are being made only in accordance with authorizations of our management and directors; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Under the supervision and with the participation of management, including our Chief Executive Officer and the Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework and criteria established in *Internal Control—Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”). This evaluation included review of the documentation of controls, testing of operating effectiveness of controls and a conclusion on this evaluation. In fiscal year 2020, we completed the acquisition of Lite-On Semiconductor Corp (“LSC”). We have excluded LSC’s business, which was accounted for as a business combination, from our assessment of the effectiveness of internal control over financial reporting. Total assets for LSC represent \$353.0 million, or 17.8%, of total assets as of \$1,979.5 million. Total net sales for LSC represent \$16.9 million, or 1.3%, of net sales for the year ended December 31, 2020.

Based on this evaluation, management concluded that our internal control over financial reporting was effective as of December 31, 2020.

The effectiveness of our internal control over financial reporting as of December 31, 2020, has been audited by Moss Adams LLP, an independent registered public accounting firm, as stated in their report which appears in Item 8 of this Annual Report on Form 10-K.

Changes in Internal Control Over Financial Reporting

There was no change in our internal control over financial reporting, known to the Chief Executive Officer or the Chief Financial Officer, that occurred during the last fiscal quarter covered by this report that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting, other than the acquisition of LSC during the fourth quarter of 2020.

Item 9B. Other Information.

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance.

The information concerning our directors, executive officers and corporate governance is incorporated herein by reference from the section entitled “Proposal One – Election of Directors” contained in our definitive proxy statement to be filed pursuant to Section 14(a) of the Securities Exchange Act of 1934 within 120 days after our fiscal year end of December 31, 2020, for our annual stockholders’ meeting for 2021 (the “Proxy Statement”).

We have adopted a code of ethics that applies to our Chief Executive Officer and senior financial officers. The code of ethics has been posted on our website under the Corporate Governance portion of the Investor Relations section at www.diodes.com. We intend to satisfy disclosure requirements regarding amendments to, or waivers from, any provisions of our code of ethics on our website.

Item 11. Executive Compensation.

The information concerning executive compensation is incorporated herein by reference from the sections entitled “Compensation Discussion and Analysis,” “Executive Compensation,” and “Compensation Committee Interlocks and Insider Participation” contained in the Proxy Statement.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

The information concerning the security ownership of certain beneficial owners and management and related stockholder matters is incorporated herein by reference from the sections entitled “General Information – Security Ownership of Certain Beneficial Owners and Management,” and “Executive Compensation – Equity Compensation Plan Information” contained in the Proxy Statement.

Item 13. Certain Relationships, Related Transactions and Director Independence.

The information concerning certain relationships, related transactions and director independence is incorporated herein by reference from the sections entitled “Corporate Governance – Certain Relationships and Related Person Transactions” and “Corporate Governance – Director Independence” and “Proposal One – Election of Directors” contained in the Proxy Statement.

Item 14. Principal Accounting Fees and Services.

The information concerning our principal accountant’s fees and services is incorporated herein by reference from the section entitled “Ratification of the Appointment of Independent Registered Public Accounting Firm” contained in the Proxy Statement.

PART IV

Item 15. Exhibits, Financial Statement Schedules.

(a) Financial Statements and Schedules

Our consolidated financial statements are as set forth under Item 8 of this report on Form 10-K.

	<u>Page</u>
(1) Financial statements:	
Report of Independent Registered Public Accounting Firm	51
Consolidated Balance Sheets at December 31, 2020, and 2019	54
Consolidated Statements of Income for the Years Ended December 31, 2020, 2019 and 2018	55
Consolidated Statements of Comprehensive Income for the Years Ended December 31, 2020, 2019 and 2018	56
Consolidated Statements of Equity for the Years Ended December 31, 2020, 2019 and 2018	57
Consolidated Statements of Cash Flows for the Years Ended December 31, 2020, 2019 and 2018	58
Notes to Consolidated Financial Statements	60
(2) Schedules:	
None	

Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements and note thereto.

(b) Exhibits

The exhibits listed on the Index to Exhibits are filed as exhibits or incorporated by reference to this Annual Report.

(c) Financial Statements of Unconsolidated Subsidiaries and Affiliates

Not Applicable.

Item 16. Form 10-K Summary.

None

Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of
Diodes Incorporated

Opinions on the Financial Statements and Internal Control over Financial Reporting

We have audited the accompanying consolidated balance sheets of Diodes Incorporated and Subsidiaries (the "Company") as of December 31, 2020 and 2019, the related consolidated statements of income, comprehensive income, equity, and cash flows for each of the three years in the period ended December 31, 2020, and the related notes (collectively referred to as the "consolidated financial statements"). We also have audited the Company's internal control over financial reporting as of December 31, 2020, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO").

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of the Company as of December 31, 2020 and 2019, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2020, in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2020, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by COSO.

Basis for Opinions

The Company's management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report on Internal Control over Financial Reporting included in Item 9A. Our responsibility is to express an opinion on the Company's consolidated financial statements and an opinion on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures to respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

As discussed in Management's Annual Report on Internal Control over Financial Reporting, on November 30, 2020, the Company acquired Lite-On Semiconductor Corporation ("LSC"). For the purposes of assessing internal control over financial reporting, management excluded LSC, whose financial statements constitute 17.8% of the Company's

consolidated total assets and 1.3% of consolidated net sales as of and for the year ended December 31, 2020. Accordingly, our audit did not include the internal control over financial reporting of LSC.

Definition and Limitations of Internal Control Over Financial Reporting

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

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Critical Audit Matters

The critical audit matters communicated below are matters arising from the current year audit of the consolidated financial statements that were communicated or required to be communicated to the audit committee of the Company's board of directors and that (1) relate to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing a separate opinion on the critical audit matters or on the accounts or disclosures to which they relate.

Revenue – Ship and Debit Reserve

As described in Note 1, the Company records reserves related to estimated customer incentives, such as "ship and debit", which arise when the Company, from time to time based on market conditions, issue credits to certain distributors upon their shipments to their end customers. The ship and debit reserve comprehends both claims in process and anticipated claims arising from the eventual sale of distribution inventory that is subject to claim activity. The Company performs a look-back analysis of revenues and credits issued to distributors. Using their look-back analysis, the Company adjusts their assumptions and estimated reserves each quarter. The resulting ship and debit reserve is recorded as a reduction to revenue for the year ended December 31, 2020 with a corresponding reduction to accounts receivable, which approximated \$48.8 million as of December 31, 2020.

Estimating the ship and debit reserve involves the application of models which require management to make certain assumptions including historical customer ship and debit credit rates and credit lag times on such revenues. These assumptions could be affected by current and future economic and market conditions. We identified the ship and debit reserve as a critical audit matter because auditing management's estimate of the ship and debit reserve was complex and judgmental due to the significant estimation required by management.

The primary procedures we performed to address this critical audit matter included:

- Obtaining an understanding, evaluating the design and testing the operating effectiveness of internal controls over the measurement of the ship and debit reserve, including testing controls over management's review of the reserve calculation and the underlying assumptions used to develop the estimate.

- Testing select distributor balances.
- Vouching revenues and ship and debit credits to supporting documents.
- Evaluating the reasonableness of management's assumptions by comparing the significant assumptions used to historical customer trends and current industry and market trends, including testing the completeness and accuracy of the underlying data.
- Performing sensitivity analyses on the significant assumptions to evaluate the potential changes in the ship and debit reserve that would result from changes in the assumptions.

Business Combinations – Preliminary Determination of Fair Value of Assets Acquired

As described in Note 1 and Note 19, a significant component of the purchase of LSC included property, plant and equipment. The preliminary valuation of the property, plant and equipment was conducted primarily using the cost approach and the sales comparison approach was used to estimate the underlying land value. The Company makes estimates and assumptions about economic obsolescence allocated to the various property, plant and equipment categories considering the perspective of marketplace participants. The resulting preliminary value of property, plant and equipment was estimated to be approximately \$68.0 million as of November 30, 2020.

We identified the property, plant and equipment preliminary valuation, inclusive of the economic obsolescence estimate, as a critical audit matter since the assumptions as described above involve high levels of management judgment and in turn led to a high degree of auditor judgment, effort and subjectivity in performing procedures and evaluating audit evidence related to management's valuation methods and significant assumptions. In addition, the audit effort involved the use of professionals with specialized skill and knowledge to assist in performing these procedures and evaluating the audit evidence obtained.

The primary procedures we performed to address this critical audit matter included:

- Obtaining an understanding, evaluating the design and testing the operating effectiveness of internal controls over the measurement of the estimated fair values of the acquired fixed assets, including testing controls over management's review of the valuation calculation and the underlying assumptions used to develop the estimate.
- Evaluating the appropriateness of management's valuation methodologies.
- Assessing the reasonableness of various inputs of the cost approach and the sales comparison approach.
- Assessing the reasonableness of any economic obsolescence allocated to the various property, plant and equipment categories.
- Involving the use of professionals with specialized skill and knowledge to assist in performing these procedures and evaluating the audit evidence obtained, including economic obsolescence.

/s/ Moss Adams LLP

Los Angeles, California
February 19, 2021

We have served as the Company's auditor since 1993.

DIODES INCORPORATED AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(In thousands, except share and per share amounts)

	December 31,	
	2020	2019
Assets		
Current assets:		
Cash and cash equivalents	\$ 268,065	\$ 258,390
Restricted cash	52,464	1,117
Short-term investments	6,142	4,825
Accounts receivable, net of allowances of \$3,806 and \$4,866 at December 31, 2020 and 2019, respectively	320,061	260,322
Inventories	307,062	236,472
Prepaid expenses and other current assets	70,193	48,833
Total current assets	1,023,987	809,959
Property, plant and equipment, net	530,815	469,574
Deferred income tax	57,841	17,516
Goodwill	158,331	141,318
Intangible assets, net	110,591	119,523
Other long-term assets	97,892	81,494
Total assets	\$ 1,979,457	\$ 1,639,384
Liabilities		
Current liabilities:		
Line of credit	\$ 140,563	\$ 13,342
Accounts payable	168,045	122,148
Accrued liabilities	160,117	100,571
Income tax payable	19,177	16,156
Current portion of long-term debt	21,860	33,105
Total current liabilities	509,762	285,322
Long-term debt, net of current portion	288,179	64,401
Deferred tax liabilities	34,598	16,333
Other long-term liabilities	130,795	120,545
Total liabilities	963,334	486,601
Commitments and contingencies (See Note 17)		
Stockholders' equity		
Preferred stock - par value \$1.00 per share; 1,000,000 shares authorized; no shares issued or outstanding	-	-
Common stock - par value \$0.66 2/3 per share; 70,000,000 shares authorized; 44,276,194 and 51,206,969, issued and outstanding at December 31, 2020 and 2019, respectively	35,692	35,111
Additional paid-in capital	449,598	427,262
Retained earnings	888,046	789,958
Treasury stock, at cost; 9,259,858 and 1,457,206, issued and outstanding at December 31, 2020 and 2019, respectively	(335,910)	(37,768)
Accumulated other comprehensive loss	(73,606)	(108,139)
Total stockholders' equity	963,820	1,106,424
Noncontrolling interest	52,303	46,359
Total equity	1,016,123	1,152,783
Total liabilities and stockholders' equity	\$ 1,979,457	\$ 1,639,384

The accompanying notes are an integral part of these consolidated financial statements.

DIODES INCORPORATED AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF INCOME
(In thousands, except per share data)

	Twelve Months Ended December 31,		
	2020	2019	2018
Net sales	\$ 1,229,215	\$ 1,249,130	\$ 1,213,989
Cost of goods sold	798,094	783,323	778,713
Gross profit	431,121	465,807	435,276
Operating expenses			
Selling, general and administrative	185,067	181,343	176,197
Research and development	94,288	88,517	86,286
Amortization of acquisition-related intangible assets	16,261	18,041	18,351
Loss (gain) on disposal of fixed assets	106	(24,429)	(636)
Other operating expense	1,067	1,727	596
Total operating expenses	296,789	265,199	280,794
Income from operations	134,332	200,608	154,482
Other income (expense)			
Interest income	1,066	2,189	1,978
Interest expense	(11,662)	(7,893)	(9,901)
Foreign currency loss, net	(9,814)	(3,737)	(3,701)
Other income	6,419	7,079	7,104
Total other expense	(13,991)	(2,362)	(4,520)
Income before income taxes and noncontrolling interest	120,341	198,246	149,962
Income tax provision	21,112	44,131	44,556
Net income	99,229	154,115	105,406
Less: net income attributable to noncontrolling interest	(1,141)	(865)	(1,385)
Net income attributable to common stockholders	\$ 98,088	\$ 153,250	\$ 104,021
Earnings per share attributable to common stockholders			
Basic	\$ 1.92	\$ 3.02	\$ 2.09
Diluted	\$ 1.88	\$ 2.96	\$ 2.04
Number of shares used in computation			
Basic	51,004	50,787	49,841
Diluted	52,133	51,860	50,935

The accompanying notes are an integral part of these consolidated financial statements.

DIODES INCORPORATED AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(In thousands)

	Twelve Months Ended December 31,		
	2020	2019	2018
Net income	\$ 99,229	\$ 154,115	\$ 105,406
Unrealized (loss) gain on defined benefit plan, net of tax	(3,723)	(4,142)	3,440
Unrealized (loss) gain on hedge instruments, net of tax	(3,183)	(3,652)	737
Unrealized foreign currency gain (loss), net of tax	41,439	1,501	(22,543)
Comprehensive income	133,762	147,822	87,040
Less: Comprehensive income attributable to noncontrolling interest	(1,141)	(865)	(1,385)
Total comprehensive income attributable to common stockholders	\$ 132,621	\$ 146,957	\$ 85,655

The accompanying notes are an integral part of these consolidated financial statements.

DIODES INCORPORATED AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF EQUITY
(In thousands)

<i>(Amounts in thousands)</i>	Common stock		Treasury stock		Additional paid-in capital	Retained earnings	Accumulated other comprehensive loss	Total Diodes Incorporated Stockholders' equity	Noncontrolling interest	Total equity
	Shares	Amount	Shares	Amount						
Balance, December 31, 2017	50,587	\$ 33,727	(1,457)	\$ (37,768)	\$ 386,338	\$ 532,687	\$ (83,480)	\$ 831,504	\$ 42,414	\$ 873,918
Total comprehensive income	-	-	-	-	-	104,021	(18,366)	85,655	1,385	87,040
Contributions from noncontrolling interests	-	-	-	-	-	-	-	-	4,902	4,902
Dividends to noncontrolling interest	-	-	-	-	-	-	-	-	(2,732)	(2,732)
Common stock issued for share-based plans	1,091	727	-	-	4,134	-	-	4,861	-	4,861
Share-based compensation	-	-	-	-	20,736	-	-	20,736	-	20,736
Tax related to net share settlement	-	-	-	-	(11,293)	-	-	(11,293)	-	(11,293)
Balance, December 31, 2018	51,678	\$ 34,454	(1,457)	\$ (37,768)	\$ 399,915	\$ 636,708	\$ (101,846)	\$ 931,463	\$ 45,969	\$ 977,432
Total comprehensive income	-	-	-	-	-	153,250	(6,293)	146,957	865	147,822
Contributions from noncontrolling interests	-	-	-	-	-	-	-	-	3,343	3,343
Dividends to noncontrolling interest	-	-	-	-	-	-	-	-	(3,818)	(3,818)
Common stock issued for share-based plans	986	657	-	-	11,244	-	-	11,901	-	11,901
Share-based compensation	-	-	-	-	20,535	-	-	20,535	-	20,535
Tax related to net share settlement	-	-	-	-	(4,432)	-	-	(4,432)	-	(4,432)
Balance, December 31, 2019	52,664	\$ 35,111	(1,457)	\$ (37,768)	\$ 427,262	\$ 789,958	\$ (108,139)	\$ 1,106,424	\$ 46,359	\$ 1,152,783
Total comprehensive income	-	-	-	-	-	98,088	34,533	132,621	1,141	133,762
Acquisition of noncontrolling interest Yea Shin	-	-	-	-	(1,225)	-	-	(1,225)	(4,930)	(6,155)
Contributions from noncontrolling interests	-	-	-	-	-	-	-	-	11,832	11,832
Dividends to noncontrolling interests	-	-	-	-	-	-	-	-	(2,099)	(2,099)
Common stock issued for share-based plans	872	581	-	-	6,249	-	-	6,830	-	6,830
Share-based compensation	-	-	-	-	24,177	-	-	24,177	-	24,177
Deferred compensation plan	-	-	-	-	-	-	-	-	-	-
Tax related to net share settlement	-	-	-	-	(8,302)	-	-	(8,302)	-	(8,302)
Stock buyback related to the LSC acquisition	-	-	(7,766)	(296,705)	-	-	-	(296,705)	-	(296,705)
Stock buyback related to deferred compensation plan	-	-	(37)	(1,437)	1,437	-	-	-	-	-
Balance December 31, 2020	<u>53,536</u>	<u>\$ 35,692</u>	<u>(9,260)</u>	<u>\$ (335,910)</u>	<u>\$ 449,598</u>	<u>\$ 888,046</u>	<u>\$ (73,606)</u>	<u>\$ 963,820</u>	<u>\$ 52,303</u>	<u>\$ 1,016,123</u>

The accompanying notes are an integral part of these consolidated financial statements.

DIODES INCORPORATED AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)

	Twelve Months Ended December 31,		
	2020	2019	2018
Operating Activities			
Net income	\$ 99,229	\$ 154,115	\$ 105,406
Adjustments to reconcile net income to net cash provided by operating activities, net of effects of acquisitions:			
Depreciation	91,747	91,543	86,291
Amortization of intangible assets	16,260	18,041	18,353
Amortization of debt issuance costs	1,455	521	522
Share-based compensation	25,260	20,535	20,736
Loss (gain) on disposal of property, plant and equipment	119	(24,429)	(636)
Deferred income taxes	(14,456)	9,904	3,674
Other	(949)	(187)	(2,335)
Changes in operating assets:			
Accounts receivable	(10,501)	(30,775)	(29,478)
Inventories	(4,560)	(11,325)	(2,154)
Prepaid expenses and other current assets	(9,067)	(6,630)	(11,119)
Changes in operating liabilities:			
Accounts payable	7,422	3,513	9,977
Accrued liabilities	(9,198)	7,369	(13,445)
Other liabilities	(2,182)	(2,694)	345
Income taxes payable (refundable)	(3,359)	271	(571)
Net cash and cash equivalents provided by operating activities	<u>187,220</u>	<u>229,772</u>	<u>185,566</u>
Investing Activities			
Acquisitions, net of cash acquired	(24,593)	(33,028)	(41)
Purchases of short-term investments	(11,486)	(19,271)	(15,901)
Sales of short-term investments	10,277	21,847	12,576
Purchase of equity securities	(6,131)	-	-
Purchases of property, plant and equipment	(75,813)	(98,505)	(87,507)
Proceeds from sales of property, plant and equipment	232	29,366	429
Other	742	(835)	1,500
Net cash and cash equivalents used by investing activities	<u>(106,772)</u>	<u>(100,426)</u>	<u>(88,944)</u>
Financing Activities			
Advances on lines of credit and short-term debt	77,483	9,954	9,151
Repayments on lines of credit and short-term debt	(40,498)	(7,362)	(2,797)
Proceeds from long-term debt	956,363	405,540	465,656
Repayments of long-term debt	(744,237)	(522,860)	(522,473)
Debt issuance costs	(2,477)	(223)	-
Repayments of finance lease obligations	(919)	(1,082)	1,198
Net proceeds from the issuance of common stock	6,830	11,901	4,862
Capital contribution from noncontrolling interest	10	-	6,255
Dividend distribution to noncontrolling interest	(2,112)	(3,818)	(2,694)
Repurchase of common stock	(296,705)	-	-
Taxes related to net share settlement	(8,302)	(4,432)	(11,294)
Other	262	(50)	225
Net cash and cash equivalents used by financing activities	<u>(54,302)</u>	<u>(112,432)</u>	<u>(51,911)</u>
Effect of exchange rate changes on cash and cash equivalents, including restricted cash	34,876	760	(8,078)
Increase (decrease) in cash and cash equivalents, including restricted cash	61,022	17,674	36,633
Cash and cash equivalents, beginning of year, including restricted cash	259,507	241,833	205,200
Cash and cash equivalents, end of year, including restricted cash	<u>\$ 320,529</u>	<u>\$ 259,507</u>	<u>\$ 241,833</u>

The accompanying notes are an integral part of these consolidated financial statements.

DIODES INCORPORATED AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS (Continued)
(In thousands)

Supplemental Cash Flow Information	Twelve Months Ended December 31,		
	2020	2019	2018
Cash paid during the year for:			
Interest	\$ 10,219	\$ 7,235	\$ 9,962
Income taxes	<u>\$ 48,040</u>	<u>\$ 37,158</u>	<u>\$ 33,265</u>
Non-cash activities:			
Accounts payable balance related to the purchase of property, plant and equipment	<u>\$ 7,297</u>	<u>\$ 10,167</u>	<u>\$ 12,598</u>

The following table provides a reconciliation between cash, cash equivalents and restricted cash reported within the consolidated balance sheets to the total of the same such amounts shown above:

Current Assets:	Twelve Months Ended December 31,		
	2020	2019	2018
Cash and cash equivalents	\$ 268,065	\$ 258,390	\$ 241,053
Restricted cash (included in other current assets)	<u>52,464</u>	<u>1,117</u>	<u>780</u>
Total cash, cash equivalents and restricted cash	<u>\$ 320,529</u>	<u>\$ 259,507</u>	<u>\$ 241,833</u>

The accompanying notes are an integral part of these consolidated financial statements.

DIODES INCORPORATED AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(Table amounts in thousands except per share data)

Note 1 – Summary of Operations and Significant Accounting Policies

Nature of operations

Diodes Incorporated, together with its subsidiaries (collectively the “Company,” “we” or “our” (Nasdaq: DIOD), is a leading global manufacturer and supplier of high-quality application specific standard products within the broad discrete, logic, analog, and mixed-signal semiconductor markets. Diodes serves the consumer electronics, computing, communications, industrial, and automotive markets.

Diodes’ products include diodes, rectifiers, transistors, MOSFETs, GPP bridges, GPP Rectifiers, protection devices, function-specific arrays, single gate logic, amplifiers and comparators, Hall-effect and temperature sensors, power management devices, including LED drivers, AC-DC converters and controllers, DC-DC switching and linear voltage regulators, and voltage references along with special function devices, such as USB power switches, load switches, voltage supervisors, and motor controllers. Diodes also has timing, connectivity, switching, and signal integrity solutions for high-speed signals.

Diodes’ corporate headquarters and Americas’ sales office are located in Plano, Texas, and Milpitas, California. Design, marketing, and engineering centers are located in Plano; Milpitas; Taipei, Taoyuan City, Zhubei City, Taiwan; Shanghai, Yangzhou, China; Oldham, England; and Neuhaus, Germany. Diodes’ wafer fabrication facilities are located in Oldham, Greenock, UK and Shanghai and Wuxi, China and Keelung and Hsinchu, Taiwan. Diodes has assembly and test facilities located in Shanghai, Jinan, Chengdu and Wuxi, China as well as in Neuhaus, Germany and Zhongli and Keelung, Taiwan. Additional engineering, sales, warehouse, and logistics offices are located in Taipei, Taiwan; Hong Kong; Oldham, UK; Shanghai, Shenzhen, Wuhan and Yangzhou, China; Seongnam-si, South Korea; and Munich, Frankfurt, Germany; with support offices throughout the world.

Our product focus is on high-growth end-user equipment markets such as satellite TV set-top boxes, portable DVD players, datacom devices, ADSL modems, power supplies, medical devices (non-life support devices/systems), PCs and notebooks, flat panel displays, digital cameras, mobile handsets, AC-to-DC and DC-to-DC conversion, Wireless 802.11 LAN access points, brushless DC motor fans, serial connectivity, and automotive applications.

Significant Accounting Policies

Principles of consolidation – The consolidated financial statements include the accounts of Diodes Incorporated, its wholly-owned subsidiaries and its controlled majority-owned subsidiaries. We account for equity investments in companies over which we have the ability to exercise significant influence, but do not hold a controlling interest, under the equity method, and we record our proportionate share of income or losses in Interest and other, net in the consolidated statements of income. All significant intercompany balances and transactions have been eliminated.

Use of estimates – The preparation of financial statements in conformity with generally accepted accounting principles in the United States of America (“GAAP”) requires that management make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. The level of uncertainty in estimates and assumptions increases with the length of time until the underlying transactions are completed. Actual results may differ from these estimates in amounts that may be material to the consolidated financial statements and accompanying notes.

Revenue recognition – Effective January 1, 2018, we adopted the comprehensive new revenue recognition standard ASC 606. ASC 606 defines a performance obligation is a promise in a contract to transfer a distinct good or service to the customer, and under ASC 606 is the unit of account. A contract’s transaction price is allocated to each distinct performance obligation and recognized as revenue when, or as, the performance obligation is satisfied. Generally speaking, our performance obligations represent a promise to transfer various semiconductor products, and have the same pattern of revenue recognition. Our performance obligations are satisfied at either a point in time, or over time as work progresses. The vast majority of our revenue from products and services is accounted for at a point in time. Substantially all of our revenue in direct and Distributor sales is recognized at a point in time. Further, the payment terms on our sales are based on negotiations with our customers.

Our customers can order different types of semiconductors in a single contract (purchase order), and each line on a purchase order represents a separate performance obligation. Depending on the terms of an arrangement, we may also be responsible for shipping and handling activities. In accordance with ASC 606-10-25-18B, we have elected to account for shipping and handling as activities to fulfill our promise to transfer the good(s). As such, shipping and handling activities do not represent a separate performance obligation, and are accrued as a fulfillment cost. Further, although we offer warranties on our products, our warranties are considered to be assurance-type in nature and do not cover anything beyond ensuring that the product is functioning as intended.

Based on the guidance in ASC 606, assurance-type warranties do not represent separate performance obligations; therefore, the primary performance obligation in the majority of our contracts is the delivery of a specific good through the purchase order submitted by our customer.

We record allowances/reserves for a number of items. The following items are the largest dollar items for which we record allowances/reserves, with ship and debit making up the vast majority: (i) ship and debit, which arise when we issue credit to certain distributors upon their shipments to their end customers; (ii) stock rotation, which are contractual obligations that permit certain distributors, up to four times a year, to return a portion of their inventory based on historical shipments to them in exchange for an equal and offsetting order; and (iii) price protection, which arise when market conditions cause average selling prices to decrease and we issue credit to certain distributors on their inventory. Ship and debit reserves are recorded as a reduction to net sales with a corresponding reduction to accounts receivable. Stock rotation reserves and price protection reserves are recorded as a reduction to net sales with a corresponding increase in accrued liabilities.

We also assess our customer's ability and intention to pay, which is based on a variety of factors including our customer's historical payment experience, their financial condition and the condition of the global economy and financial markets. Payment terms and conditions typically vary depending on negotiations with the customer.

Net sales are reduced in the period of sale for estimates of product returns and other allowances including distributor adjustments, which were approximately \$194.7 million, \$163.9 million and \$158.8 million in 2020, 2019 and 2018, respectively.

Product warranty – We generally warrant our products for a period of one year from the date of sale. Historically, warranty expense has not been material.

Cash, cash equivalents, and short-term investments – We consider all highly liquid investments with maturity of three months or less at the date of purchase to be cash equivalents. We currently maintain substantially all of our day-to-day operating cash balances with major financial institutions. We hold short-term investments consisting of time deposits, which are highly liquid with maturity dates greater than three months at the date of purchase. Generally, we can access these investments in a relatively short amount of time but in doing so we generally forfeit a portion of interest income. See Note 3 below for additional information regarding fair value of financial instruments.

Allowance for doubtful accounts – We evaluate the collectability of our accounts receivable based upon a combination of factors, including the current business environment and historical experience. If we are aware of a customer's inability to meet its financial obligations, we record an allowance to reduce the receivable to the amount we reasonably believe will be collected from the customer. For all other customers, we record an allowance based upon the amount of time the receivables are past due. If actual accounts receivable collections differ from these estimates, an adjustment to the allowance may be necessary with a resulting effect on operating expense. Accounts receivable are presented net of valuation allowance, which were approximately \$3.8 million at December 31, 2020 and \$4.9 million at December 31, 2019.

Inventories – Inventories are stated at the lower of cost or net realizable value. Cost is determined principally by the first-in, first-out method. Cost includes materials, labor, and manufacturing overhead related to the purchase and production of inventories. Any write-down of inventory to the lower of cost or net realizable value at the close of a fiscal period creates a new cost basis that subsequently would not be marked up based on changes in underlying facts and circumstances. On an on-going basis, we evaluate inventory for obsolescence and slow-moving items. This evaluation includes analysis of sales levels, sales projections, and purchases by item, as well as raw material usage related to our manufacturing facilities. If our review indicates a reduction in utility below carrying value, we reduce inventory to a new cost basis. If future demand or market conditions are different than our current estimates, an inventory adjustment to write down inventory may be required, and would be reflected in cost of goods sold in the period the revision is made.

Property, plant and equipment – Purchased property, plant and equipment is recorded at historical cost, and property, plant and equipment acquired in a business combination is recorded at fair value on the date of acquisition. Property, plant and equipment is depreciated using straight-line methods over the estimated useful lives, which range from 20 to 55 years for buildings and 3 to 10 years for machinery and equipment. The estimated lives of leasehold improvements range from 3 to 5 years, and are amortized over the shorter of the remaining lease term or their estimated useful lives.

Goodwill and other indefinite lived intangible assets – Goodwill and indefinite lived assets are tested for impairment on an annual basis or when an event or changes in circumstances indicate that its carrying value may not be recoverable. Goodwill impairment is tested at the reporting unit level, which is defined as an operating segment or one level below the operating segment. Diodes has one operating segment. No **goodwill impairment occurred in 2020, 2019, or 2018**. Goodwill is reviewed for impairment using either a qualitative assessment or a quantitative goodwill impairment test. If we choose to perform a qualitative assessment and determine the fair value more likely than not exceeds the carrying value, no further evaluation is necessary. When we perform the quantitative goodwill impairment test, we compare fair value to carrying value, which includes goodwill. If fair value exceeds carrying value, the goodwill is not considered impaired. If the carrying value is higher than the fair value, the difference would be recognized as an impairment loss.

Impairment of long-lived assets – Our long-lived assets are reviewed whenever events or changes in circumstances indicate that the carrying value may not be recoverable. We consider assets to be impaired if the carrying value exceeds the undiscounted projected cash flows from operations. If impairment exists, the assets are written down to fair value or to the projected discounted cash flows from related operations. As of December 31, 2020, we expect the remaining carrying value of assets to be recoverable.

Business combinations – We account for acquired businesses using the acquisition method of accounting, which requires that once control of a business is obtained, 100% of the assets acquired and liabilities assumed, including amounts attributed to noncontrolling interests, be recorded at the date of acquisition at their respective fair values. **Any excess of the purchase price over the estimated fair values of the net assets acquired is recorded as goodwill.**

For significant acquisitions we may use independent third-party valuation specialists to assist us in determining the fair value of assets acquired and liabilities assumed.

Significant judgment is often required in estimating the fair value of assets acquired and liabilities assumed. The Company makes estimates and assumptions about conditions of the assets, other costs not captured in the base costs, and consideration for entrepreneurial profit, depreciation, functional obsolescence, and economic obsolescence allocated to the various property, plant and equipment categories considering the perspective of marketplace participants.

While management believes those expectations and assumptions are reasonable, they are inherently uncertain. Unanticipated market or macroeconomic events and circumstances may occur, which could affect the accuracy or validity of the estimates and assumptions, which could result in subsequent impairments.

During the normal course of business the Company pursues acquisitions. See Note 19 for additional information regarding business combinations.

Income taxes – Income taxes are accounted for using an asset and liability approach whereby deferred tax assets and liabilities are recorded for differences in the financial reporting bases and tax bases of our assets and liabilities. If it is more likely than not that some portion of deferred tax assets will not be realized, a valuation allowance is recorded.

GAAP prescribes a comprehensive model for how companies should recognize, measure, present, and disclose in their financial statements uncertain tax positions taken or expected to be taken on a tax return. Tax positions shall initially be recognized in the financial statements when it is more likely than not the position will be sustained upon examination by the tax authorities. Such tax positions shall initially and subsequently be measured as the largest amount of tax benefit that is greater than 50% likely of being realized upon ultimate settlement with the tax authority assuming full knowledge of the position and all relevant facts. All deferred income taxes are classified as noncurrent assets or noncurrent liabilities on the consolidated balance sheet as of December 31, 2020 and 2019, respectively.

Research and development costs – Internally-developed research and development costs are expensed as incurred. Acquired in-process research and development (“IPR&D”) is capitalized as an indefinite-lived intangible asset and evaluated periodically for impairment. When the project is completed, an expected life is determined and the IPR&D is amortized as an expense over the expected life.

Shipping and handling costs – Shipping and handling costs for products shipped to customers, which are included in selling, general and administrative expenses, were approximately \$16.6 million, \$13.9 million and \$14.8 million for the twelve months ended December 31, 2020, 2019 and 2018, respectively.

Concentration of credit risk – Financial instruments, which potentially subject us to concentrations of credit risk, include trade accounts receivable. Credit risk is limited by the dispersion of our customers over various geographic areas, operating primarily in electronics manufacturing and distribution. We perform a credit evaluation of new customers and monitor the accounts receivable aging of our existing customers. Generally we require no collateral from our customers and historically credit losses have been insignificant.

We currently maintain substantially all of our day-to-day cash balances and short-term investments with major financial institutions. Cash balances are usually in excess of Federal and/or foreign deposit insurance limits.

Valuation of financial instruments – The carrying value of our financial instruments, including cash and cash equivalents, short-term investments, accounts receivable, accounts payable, credit line, and long-term debt approximate fair value due to their current market conditions, maturity dates and other factors.

Share-based compensation – We use the Black-Scholes-Merton model to determine the fair value of stock options on the date of grant and recognize compensation expense for stock options on a straight-line basis. Restricted stock grants are measured based on the fair market value of the underlying stock on the date of grant and compensation expense is recognized on a straight-line basis over the requisite four-year service period. Performance stock units are measured based on the fair market value of the underlying stock on the date of grant and compensation expense is recognized over the three-year performance period, with adjustments made to the expense to recognize the probable payout percentage.

The amount of compensation expense recognized using the Black-Scholes-Merton model requires us to exercise judgment and make assumptions relating to the factors that determine the fair value of our stock option grants. The fair value calculated by this model is a function of several factors, including the grant price, the expected future volatility, the expected term of the option and the risk-free interest rate of the option. The expected term and expected future volatility of the options require judgment. In addition, we estimate the expected forfeiture rate and only recognize expense for those stock options expected to vest. We estimate the forfeiture rate based on historical experience, and to the extent our actual forfeiture rate is different from our estimate, share-based compensation expense is adjusted accordingly.

Treasury stock – Under a program previously authorized by our board of directors we purchased shares of our common stock. This program expired on December 31, 2019, and there currently is no authorized plan to repurchase our shares of common stock. Shares that are reacquired are recorded as treasury stock, at cost, the measurement date of cost being date of purchase, as a reduction to stockholder' equity.

During the fourth quarter of 2020, as part of the Lite-On Semiconductor acquisition, the Company reacquired 7,765,778 shares of its Common Stock.

Functional currencies and foreign currency translation – We translate the assets and liabilities of our non-U.S. dollar functional currency subsidiaries into U.S. dollars using exchange rates on the balance sheet date. Net sales and expense for these subsidiaries are translated at the weighted-average exchange rate during the period presented. Resulting translation adjustments are recorded as a separate component of accumulated other comprehensive income or loss within stockholders' equity in the consolidated balance sheets. Included in other income are foreign exchange losses of approximately \$9.8 million for the twelve month ended December 31, 2020, and approximately \$ 3.7 million for the twelve months periods ended December 31, 2019 and 2018, respectively.

Defined benefit plan – We maintain plans covering certain of our employees in the U.K. The overfunded or underfunded status of pension and postretirement benefit plans are recognized on the balance sheet. Actuarial gains and losses, and prior service costs or credits, are recognized in other comprehensive income (loss), net of tax effects, until they are amortized as a component of net periodic benefit cost. For financial reporting purposes, the net pension and supplemental retirement benefit obligations and the related periodic pension costs are calculated based upon, among other things, assumptions of the discount rate for plan obligations, estimated return on pension plan assets and mortality rates. These obligations and related periodic costs are measured using actuarial techniques and assumptions. The projected unit credit method is the actuarial cost method used to compute the pension liabilities and related expenses. The expected long-term return on plan assets was determined based on historical and expected future returns of the various asset classes. The plan's investment policy includes a mandate to diversify assets and invest in a variety of asset classes to achieve its expected long-term return and is currently invested in a variety of funds representing most standard equity and debt security classes. Trustees of the plan may make changes at any time. As part of the LSC acquisition we have assumed the liability associated with a defined benefit plan for certain LSC employees. The net liability assumed was approximately \$4.7 million, as of December 31, 2020.

Noncontrolling interest - Noncontrolling interest primarily relates to the minority investors' share of the earnings of certain China and Taiwan subsidiaries. Noncontrolling interests are a separate component of equity and not a liability. Increases or decreases in noncontrolling interest, due to changes in our ownership interest of the subsidiaries that leave control intact, are recorded as equity transactions. The noncontrolling interest in our subsidiaries and their equity balances are reported separately in the consolidated financial statements, and activities of these subsidiaries are included therein.

Contingencies – From time to time, we may be involved in a variety of legal matters that arise in the normal course of business. Based on information available, we evaluate the likelihood of potential outcomes. We record and disclose the appropriate liability when the amount is deemed probable and reasonably estimable. In addition, we do not accrue for estimated legal fees and other directly related costs as they are expensed as incurred.

Comprehensive income (loss) – GAAP generally requires that recognized revenue, expenses, gains and losses be included in net income. Although certain changes in assets and liabilities are reported as separate components of the equity section of the consolidated balance sheet, such items, along with net income, are components of comprehensive income or loss. The components of

accumulated other comprehensive income or loss include foreign currency translation adjustments and unrealized gain or loss on defined benefit plan. Accumulated other comprehensive loss was approximately \$73.6 million, \$108.1 million and \$101.8 million at December 31, 2020, 2019 and 2018, respectively.

As of December 31, the accumulated balance for each component of comprehensive income is as follows:

	2020	2019
Unrealized foreign currency losses	\$ (21,614)	\$ (63,053)
Unrealized gain on cross currency and interest rate swaps, net of tax	\$ (3,574)	\$ (391)
Unrealized loss on defined benefit plan	\$ (48,418)	\$ (44,695)

Reclassifications – Certain immaterial amounts from prior periods have been reclassified to conform to the current years’ presentation.

Recently Issued Accounting Pronouncements

The Financial Accounting Standards Board (“FASB”) issued the following Accounting Standards Updates (“ASU”) which could have potential impact to the Company’s financial statements:

In March 2020, the FASB issued ASU No. 2020-04 *Reference Rate Reform (Topic 848)*. ASU No. 2020-04 contains practical expedients for reference rate reform related activities that impact debt, leases, derivatives and other contracts. The guidance in ASU No. 2020-04 is optional and may be elected over time as reference rate reform activities occur. During the second quarter of 2020, the Company elected to apply the hedge accounting expedients related to probability and the assessments of effectiveness for future LIBOR-indexed cash flows to assume that the index upon which future hedged transactions will be based matches the index on the corresponding derivatives. Application of these expedients preserves the presentation of derivatives consistent with past presentation. The Company continues to evaluate the impact of the guidance and may apply other elections as applicable as additional changes in the market occur.

In June 2016, the FASB issued ASU No. 2016-13, which requires measurement and recognition of expected credit losses for financial assets held. We adopted ASU No. 2016-13 effective January 1, 2020. The adoption of ASU No. 2016-13 did not have a material impact on our consolidated financial statements and related disclosures.

Note 2 – Earnings per Share

Basic earnings per share is calculated by dividing net earnings attributable to common stockholders by the weighted-average number of shares of common stock outstanding during the period. Diluted earnings per share is calculated similarly but includes potential dilution from the exercise of stock options and stock awards, except when the effect would be anti-dilutive. Earnings per share are computed using the “treasury stock method.”

	Twelve Months Ended December 31,		
	2020	2019	2018
Earnings (numerator)			
Net income (loss) attributable to common stockholders	\$ 98,088	\$ 153,250	\$ 104,021
Shares (denominator)			
Weighted average common shares outstanding (basic)	51,004	50,787	49,841
Dilutive effect of stock options and stock awards outstanding	1,129	1,073	1,094
Adjusted weighted average common shares outstanding (diluted)	52,133	51,860	50,935
Earnings (loss) per share attributable to common stockholders			
Basic	\$ 1.92	\$ 3.02	\$ 2.09
Diluted	\$ 1.88	\$ 2.96	\$ 2.04
Stock options and stock awards excluded from EPS calculation because their inclusion would be anti-dilutive			
	137	101	1,103

Note 3 – Fair Value Measurements

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

We use valuation techniques that are consistent with the market approach, the income approach and/or the cost approach. The market approach uses prices and other relevant information generated by market transactions involving identical or comparable assets and liabilities. The income approach uses valuation techniques to convert future amounts, such as cash flows or earnings, to a single present amount on a discounted basis. The cost approach is based on the amount that currently would be required to replace the service capacity of an asset (replacement costs). Valuation techniques should be consistently applied. Inputs to valuation techniques refer to the assumptions that market participants would use in pricing the asset or liability. Inputs may be observable, meaning those that reflect the assumptions market participants would use in pricing the asset or liability developed based on market data obtained from independent sources, or unobservable, meaning those that reflect the reporting entity's own assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available in the circumstances. These two types of inputs create a three-tier fair value hierarchy that gives the highest priority to quoted prices in active markets for identical assets or liabilities and the lowest priority to unobservable inputs. The fair value hierarchy is as follows:

Level 1 Inputs - Unadjusted quoted prices in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date.

Level 2 Inputs - Inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly. These include quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, inputs other than quoted prices that are observable for the asset or liability (for example, interest rates, volatilities, prepayment speeds, loss severities, credit risks and default rates) or inputs that are derived principally from or corroborated by observable market data by correlation or other means.

Level 3 Inputs - Significant unobservable inputs that reflect an entity's own assumptions that market participants would use in pricing the assets or liabilities.

As of December 31, 2020, we had short-term and long-term investments. Long-term investments are included with Other long-term assets on the consolidated balance sheet. Trading securities held at December 31, 2020, were purchased on the open market and unrealized gains and losses are included in Other income (expense). The trading securities are valued under the fair value hierarchy using Level 1 Inputs. Short-term investments consist of investments such as time deposits, which are highly liquid with maturity dates greater than three months at the date of purchase. Generally, we can access these short-term investments in a relatively short amount of time but in doing so we generally forfeit a portion of earned and future interest income. Long-term investments consist of certain equity securities acquired as part of the LSC acquisition. Deferred compensation investments consist of the Company's stock, mutual funds and cash. See Note 13 for additional information related to our deferred compensation program and Note 18 for additional information related to our interest rate swaps and foreign currency hedges. The short-term investments, long-term investments and deferred compensation investments are valued under the fair value hierarchy using Level 1 and Level 2 Inputs.

Financial assets and liabilities carried at fair value as of December 31, 2020, are classified in the following table:

Description	Fair Market Value	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total Changes in Fair Values Included in Current Period Earnings
Short-term investments	\$ 6,142	\$ 6,142	\$ -	\$ -	\$ -
Long-term investments	18,295	18,295	-	-	-
Cross-currency swap liability	2,305	-	2,305	-	-
Interest rate swap liability	1,626	-	1,626	-	-
Deferred compensation investments	12,829	691	12,138	-	-

Financial assets and liabilities carried at fair value as of December 31, 2019 are classified in the following table:

Description	Fair Market Value	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total Changes in Fair Values Included in Current Period Earnings
Short-term investments	\$ 4,825	\$ 4,825	\$ -	\$ -	\$ -
Interest rate swap assets	51	-	51	-	-
Deferred compensation investments	12,912	2,534	10,378	-	-

Certain financial assets and financial liabilities are measured at fair value on a non-recurring basis; that is, the instruments are not measured at fair value on an ongoing basis, but are subject to fair value adjustments in certain circumstances (for example, when there is evidence of impairment). We believe our long-term debt under our revolving credit facility approximates fair value and is valued under the fair value hierarchy using Level 2 Inputs. Financial assets and financial liabilities measured at fair value on a non-recurring basis were not significant at December 31, 2020 and 2019.

We also are responsible for a pension plan in the U.K. that holds investments carried at fair value. See Note 13 for additional information related to these pension plan investments.

Note 4 – Inventories

Inventories, stated at the lower of cost or market value, at December 31 were:

	2020	2019
Finished goods	\$ 85,506	\$ 62,900
Work-in-progress	73,466	55,082
Raw materials	148,090	118,490
	<u>\$ 307,062</u>	<u>\$ 236,472</u>

Note 5 – Property, Plant and Equipment

Property, plant and equipment at December 31 were:

	2020	2019
Buildings and leasehold improvements	\$ 267,700	\$ 228,522
Machinery and equipment	942,405	863,771
	1,210,105	1,092,293
Less: Accumulated depreciation and amortization	(791,348)	(706,658)
	418,757	385,635
Construction in-progress	45,060	30,747
Land	66,998	53,192
	<u>\$ 530,815</u>	<u>\$ 469,574</u>

Depreciation and amortization of property, plant and equipment was \$91.7 million, \$91.5 million and \$86.3 million for the years ended December 31, 2020, 2019 and 2018, respectively. During the fourth quarter of 2019 the Company recorded a \$24.3 million gain realized upon selling land. The land was acquired in a previous period in anticipation of building a new corporate headquarters building.

Note 6 – Intangible Assets

Intangible assets subject to amortization at December 31 were as follows:

December 31, 2020					
Intangible Assets	Useful life	Gross Carrying Amount	Accumulated Amortization	Currency Exchange	Net
Amortized intangible assets					
Patents	5-15 years	\$ 13,040	\$ (11,409)	\$ (139)	\$ 1,492
Developed product technology	2-10 years	164,300	(89,027)	(5,891)	69,382
Customer relationships	7-12 years	62,093	(34,597)	(1,688)	25,808
Software license and other	3-4 years	5,743	(5,677)	(63)	3
Total amortized intangible assets		245,176	(140,710)	(7,781)	96,685
Intangible assets with indefinite lives					
In process research and development	Indefinite	4,580	-	-	4,580
Trademarks and trade names	Indefinite	10,303	-	(977)	9,326
Total Intangible assets with indefinite lives		14,883	-	(977)	13,906
Total intangible assets		\$ 260,059	\$ (140,710)	\$ (8,758)	\$ 110,591

December 31, 2019					
Intangible Assets	Useful life	Gross Carrying Amount	Accumulated Amortization	Currency Exchange	Net
Amortized intangible assets					
Patents	5-15 years	\$ 12,931	\$ (10,634)	\$ (254)	\$ 2,043
Developed product technology	2-10 years	159,129	(77,915)	(7,857)	73,357
Customer relationships	7-12 years	62,093	(30,138)	(1,682)	30,273
Software license and other	3-4 years	5,822	(5,765)	(49)	8
Total amortized intangible assets		239,975	(124,452)	(9,842)	105,681
Intangible assets with indefinite lives					
In process research and development	Indefinite	4,580	-	-	4,580
Trademarks and trade names	Indefinite	10,303	-	(1,041)	9,262
Total Intangible assets with indefinite lives		14,883	-	(1,041)	13,842
Total intangible assets		\$ 254,858	\$ (124,452)	\$ (10,883)	\$ 119,523

Amortization expense related to intangible assets subject to amortization was \$16.3 million, \$18.0 million and \$18.4 million for the years ended December 31, 2020, 2019 and 2018, respectively. In process research and development is transferred to amortized intangible assets at the time the product becomes viable.

The weighted amortization period for intangible assets subject to amortization is 9.8 years. The schedule below sets future amortization expense of our currently owned intangible assets:

2021	\$	16,606
2022		15,981
2023		15,716
2024		15,359
2025		14,483
2026 and thereafter		18,540
Total	\$	96,685

Note 7 – Goodwill

Changes in goodwill for the years ended December 31, were as follows:

Balance at December 31, 2018	\$	132,437
Acquisitions:		
Wafer fabrication in Greenock, Scotland		931
Canyon Investment		1,671
ERIS acquisition of Yea Shin Technology Corporation		4,320
Foreign currency translation adjustment		1,959
Balance at December 31, 2019		141,318
Acquisitions:		
Savitech		13,962
Foreign currency translation adjustment		3,051
Balance at December 31, 2020	\$	158,331

Note 8 – Bank Credit Agreements and Other Short-term and Long-term Debt

Short-term debt

Our Asia subsidiaries maintain credit facilities with several financial institutions through our foreign entities worldwide totaling \$307.1 million. The increase from 2019 to 2020 reflects \$147.6 million short-term facility assumed as part of the LSC acquisition. Other than two Taiwanese credit facilities that are collateralized by assets, our foreign credit lines are unsecured, uncommitted, repayable on demand, terminable by the lender at any time and contain no restrictive covenants. These credit facilities bear interest at LIBOR or similar indices plus a specified margin. Interest payments are due monthly on outstanding amounts under the credit lines. The unused and available credit under the various facilities as of December 31, 2020, was approximately \$166.0 million, net of a \$140.6 million advanced under our foreign credit lines and \$0.5 million credit used for import and export guarantee.

Long-term debt

On May 29, 2020, the Company, Diodes Holding B.V. (the “Foreign Borrower” and, collectively with the Company, the “Borrowers”), and certain subsidiaries of the Company as guarantors, entered into a Second Amended and Restated Credit Agreement (the “Second and Amended Credit Agreement”) that amends and restates that certain Amended and Restated Credit Agreement dated as of October 26, 2016 (as amended, modified and/or supplemented from time to time prior to May 29, 2020, the “Existing Credit Agreement”). On December 31, 2020, Diodes Holding B.V. merged into Diodes Holdings UK Limited, which following the merger became the Foreign Borrower under the Credit Agreement, and in connection with the merger, the parties to the Second Amended and Restated Credit Agreement entered into a Consent and Amendment No. 2 to Second Amended and Restated Credit Agreement (“Consent and Amendment No. 2”; the Second Amended and Restated Credit Agreement as amended by Consent and Amendment No. 2 is referred to as the “Credit Agreement”). Certain capitalized terms used in this description of the Credit Agreement have the meanings given to them in the Credit Agreement, the current form of which is set forth in Exhibit A to Consent and Amendment No. 2, which is attached as an exhibit to this report. The Company analyzed the amendment and restatement of the Existing Credit Agreement pursuant to the guidance in ASC No. 470-50, Debt—Modifications and Extinguishments. The Company determined that certain lenders had changes in cash flows which were substantially different as a result of the amendment and restatement of the Existing Credit Agreement, which resulted in a debt extinguishment of \$52.2 million and a loss on extinguishment and third-party fees of \$0.7 million being expensed in the nine-month period ended September 30, 2020.

The Second Amended and Restated Credit Agreement rebalanced the Company’s existing senior credit facilities under the Existing Credit Agreement from (x) aggregate credit facilities of \$500,000,000, consisting of (A) a \$250,000,000 revolving senior credit facility, which included a \$10,000,000 swing line sublimit, a \$10,000,000 letter of credit sublimit, and a \$20,000,000 alternative currency sublimit, and (B) a \$250,000,000 term loan to (y) aggregate credit facilities of \$670,000,000 consisting of (A) an acquisition draw term commitment of \$340,000,000 (the “Acquisition Draw Term Commitment”), (B) an initial term commitment of \$180,000,000 (the “Initial Term Commitment” and, together with the Acquisition Draw Term Commitment, the “Term Loan”) and (C) a \$150,000,000 revolving senior credit facility (the “Revolver”), which includes a \$20,000,000 uncommitted swing line sublimit, a \$10,000,000 letter of credit sublimit, and a \$40,000,000 alternative currency sublimit.

The Revolver and the Term Loan mature on May 29, 2023 (the “Maturity Date”). Both the term loan portion and the revolving portion of the Credit Agreement bear an interest rate at LIBOR or similar other indices plus a specified margin. The Company used a portion of the proceeds available under the Revolver and the Term Loan (i) to finance the Company’s acquisition of Lite-On Semiconductor Corporation, which is described more fully elsewhere in this report, (ii) to refinance certain existing indebtedness of

the Borrowers and their subsidiaries under the Existing Credit Agreement and (iii) for working capital, capital expenditures, and other lawful corporate purposes, including, without limitation, financing permitted acquisitions.

The Credit Agreement contains certain financial and non-financial covenants, including, but not limited to, a maximum Consolidated Leverage Ratio, a minimum Consolidated Fixed Charge Coverage Ratio, and restrictions on liens, indebtedness, investments, fundamental changes, dispositions, and restricted payments (including dividends and share repurchases). These covenants are generally similar to the corresponding covenants in the Existing Credit Agreement, except that certain amounts permitted as exceptions to negative covenants restricting liens, indebtedness, investments, dispositions and restricted payments have been revised, and additional exceptions to certain negative covenants have been added, including increased capacity for certain intercompany Indebtedness and Investment (including existing Lite-On Indebtedness), and the right to enter into certain securitization transactions and receivables facilities, subject to limitations set forth in the Credit Agreement. Furthermore, under the Credit Agreement, restricted payments, including dividends and share repurchases, are permitted in certain circumstances, including while the pro forma Consolidated Leverage Ratio is, both before and after giving effect to any such restricted payment, at least 0.25 to 1.00 less than the maximum permitted under the Credit Agreement. In addition to our credit lines, our 51% owned subsidiary, ERIS Technology Corporation (“ERIS”), has short-term debt of \$12.3 million and long-term debt of \$30.0 million on a long-term basis from local Taiwan banks. The ERIS debt matures in various periods from 2021 through 2033.

Borrowings outstanding as of December 31, 2020 and December 31, 2019, are set forth in the table below:

Description	December 31,		Interest Rate	Current Amount Maturity
	2020	2019		
Short-term debt	\$ 140,567	\$ 13,342	Libor plus margin	Various during 2021
Long-term debt				
Notes payable to Bank of Taiwan	\$ 4,154	\$ 4,242	Variable, 1.3% base	June 2033
Notes payable to Bank of China Trust Company	3,511	-	Taibor 3 month rate + 0.5%	December 2021
Notes payable to Bank of China Trust Company	16,714	19,212	Taibor 3 month rate + 0.5%	May 2024
Notes payable to E Sun Bank	3,511	-	1-M deposit rate plus 0.08%	December 2022
Notes payable to E Sun Bank	386	-	1-M deposit rate plus 0.08%	June 2027
Notes payable to E Sun Bank	1,721	-	1-M deposit rate plus 0.08%	June 2030
Term loan and revolver	282,250	75,187	Libor plus margin	May 2023
Total long-term debt	312,247	98,641		
Less: Current portion of long-term debt	(21,860)	(33,105)		
Less: Unamortized debt-issuance costs	(2,208)	(1,135)		
Total long-term debt, net of current portion	\$ 288,179	\$ 64,401		

The table below sets forth the annual contractual maturities of long-term debt at December 31, 2020:

2021	\$ 21,861
2022	22,333
2023	250,181
2024	13,636
2025	4,236
Total long-term debt	\$ 312,247

Note 9 – Leases

The Company leases certain assets used in its business, including land, buildings and equipment. These leased assets are used for operational and administrative purposes.

The table below sets forth the components of lease expense for the years ended December 31:

	2020	2019
Operating lease expense	\$ 15,111	\$ 14,824
Finance lease expense:		
Amortization of assets	836	978
Interest on lease liabilities	14	48
Short-term lease expense	525	336
Variable lease expense	2,940	2,663
Total lease expense	\$ 19,426	\$ 18,849

The table below sets forth supplemental balance sheet information related to leases as of December 31:

	2020	2019
Operating leases:		
Operating lease ROU assets	\$ 54,457	\$ 57,427
Current operating lease liabilities	10,663	12,554
Noncurrent operating lease liabilities	27,041	27,545
Total operating lease liabilities	\$ 37,704	\$ 40,099
Finance leases:		
Finance lease ROU assets	\$ 2,507	\$ 3,396
Accumulated amortization	(2,298)	(1,924)
Finance lease ROU assets, net	\$ 209	\$ 1,472
Current finance lease liabilities	\$ 149	\$ 903
Non-current finance lease liabilities	24	138
Total finance lease liabilities	\$ 173	\$ 1,041
Weighted average remaining lease term (in years):		
Operating leases	7.6	4.4
Finance leases	0.6	1.3
Weighted average discount rate:		
Operating leases	4.0%	3.8%
Finance leases	3.1%	3.0%

The table below sets forth supplemental cash flow and other information related to leases for the twelve months ended December 31:

	2020	2019
Cash paid for the amounts included in the measurements of lease liabilities:		
Operating cash outflows from operating leases	\$ 15,943	\$ 18,325
Operating cash outflows from finance leases	19	48
Financing cash outflow from finance leases	919	1,082
ROU assets obtained in exchange for lease liabilities incurred:		
Operating leases	6,339	3,956

The table below sets forth information about lease liability maturities:

	December 31, 2020	
	Operating Leases	Finance Leases
2021	\$ 11,842	\$ 151
2022	9,993	12
2023	5,626	10
2024	3,102	2
2025	2,999	-
2026	2,585	-
2027 and thereafter	8,648	-
Total lease payments	44,795	175
Less: imputed interest	(7,091)	(2)
Total lease obligations	37,704	173
Less: current obligations	(10,663)	(149)
Long-term lease obligations	\$ 27,041	\$ 24

Note 10 – Accrued Liabilities and Other Long-Term Liabilities

Accrued liabilities and other current liabilities at December 31 were:

	2020	2019
Accrued expenses	\$ 60,322	\$ 30,761
Compensation and payroll taxes	48,748	34,043
Equipment purchases	7,297	10,167
Operating lease	10,663	12,554
Finance lease	149	903
Accrued pricing adjustments	7,891	5,617
Accrued professional services	3,708	3,258
Tax payable - non-income tax related	7,858	2,972
Other	13,481	296
	\$ 160,117	\$ 100,571

Other long-term liabilities at December 31 were:

	2020	2019
Accrued defined benefit plan	\$ 35,316	\$ 28,795
Unrecognized tax benefits	27,965	28,215
Operating lease	27,041	27,545
Finance lease	24	138
Deferred grants and subsidy	11,924	12,774
Deferred compensation	14,833	12,166
Tax contingencies	8,787	8,631
Other	4,905	2,281
	\$ 130,795	\$ 120,545

Note 11 – Stockholders’ Equity

We have never declared or paid cash dividends on our Common Stock. Our U.S. Credit Facility permits us to pay dividends up to \$25.0 million per fiscal year to its stockholders so long as we have not defaulted under the U.S. Credit Facility at the time of such dividend and no default would result from declaring or paying such dividend. The payment of dividends is within the discretion of our Board of Directors. See Note 8 for additional information regarding our credit agreements.

During November 2015, the Company’s board of directors authorized a share repurchase plan to repurchase up to an aggregate of \$100 million of the Company’s outstanding common stock. This repurchase plan expired December 31, 2019, and was not renewed.

During 2020, in connection with the LSC acquisition, the Company acquired approximately 7.8 million shares of its stock that was owned by LSC. These shares are reflected as treasury stock in the consolidated balance sheet.

Note 12 – Income Taxes

The table below sets forth our (loss) income before taxes for the years ended December 31:

	2020	2019	2018
Income (loss) before income taxes			
U.S.	\$ 45,526	\$ 73,352	\$ (24,141)
Foreign	74,815	124,894	174,103
Total	<u>\$ 120,341</u>	<u>\$ 198,246</u>	<u>\$ 149,962</u>

The table below sets forth the components of our income tax provision (benefit) for the years ended December 31:

	2020	2019	2018
Current tax provision			
Federal	\$ 631	\$ 259	\$ -
Foreign	17,115	28,829	42,726
State	56	92	24
	<u>17,802</u>	<u>29,180</u>	<u>42,750</u>
Deferred tax provision (benefit)			
Federal	6,411	886	2,400
Foreign	(6,210)	11,994	(3,107)
State	65	30	56
	<u>266</u>	<u>12,910</u>	<u>(651)</u>
Liability for unrecognized tax benefits	3,044	2,041	2,457
Total income tax provision	<u>\$ 21,112</u>	<u>\$ 44,131</u>	<u>\$ 44,556</u>

Effective Tax Rate Reconciliation

The table below sets forth a reconciliation between the effective tax rate and the statutory tax rates for the years ended December 31:

	2020		2019		2018	
	Amount	Percent of pretax earnings*	Amount	Percent of pretax earnings*	Amount	Percent of pretax earnings*
Federal tax	\$ 25,272	21.0	\$ 41,632	21.0	\$ 31,488	21.0
State income taxes, net of federal tax provision	(378)	(0.3)	1,389	0.7	(375)	(0.3)
Foreign income taxed at different tax rates	81	0.1	(5,786)	(2.9)	(2,844)	(1.9)
U.S. tax impact of foreign operations	(3,031)	(2.5)	(3,340)	(1.7)	4,140	2.8
Foreign withholding taxes	(1,798)	(1.5)	22,685	11.4	10,962	7.3
Research and development	(4,210)	(3.5)	(3,686)	(1.9)	(3,541)	(2.4)
Liability for unrecognized tax benefits	3,044	2.5	2,041	1.0	2,457	1.6
Valuation allowance	2,199	1.8	(10,563)	(5.3)	(379)	(0.3)
Employee stock-based compensation	(660)	(0.5)	(52)	-	(2,154)	(1.4)
U.S. Tax Cuts and Jobs Act	-	-	-	-	2,762	1.8
Other	593	0.5	(189)	(0.1)	2,040	1.4
Income tax provision	<u>\$ 21,112</u>	17.5	<u>\$ 44,131</u>	22.3	<u>\$ 44,556</u>	29.7

* The sum of the amounts in the table may not equal to the effective tax rate due to rounding.

Uncertain Tax Positions

In accordance with the provisions related to accounting for uncertainty in income taxes, we recognize the benefit of a tax position if the position is “more likely than not” to prevail upon examination by the relevant tax authority. The table below sets forth a reconciliation of the beginning and ending amount of unrecognized tax benefits:

	2020	2019	2018
Balance at January 1,	\$ 35,652	\$ 32,209	\$ 30,581
Additions based on tax positions related to the current year	7,495	9,274	4,667
Additions for prior year tax positions	4,952	39	-
Reductions for prior year tax positions	(5,633)	(5,870)	(3,039)
Balance at December 31,	<u>\$ 42,466</u>	<u>\$ 35,652</u>	<u>\$ 32,209</u>

If the \$42.5 million of unrecognized tax benefits as of December 31, 2020, is recognized, approximately \$40.3 million would affect the effective tax rate. It is reasonably possible that the amount of the unrecognized benefit with respect to certain of our unrecognized tax positions will significantly increase or decrease within the next 12 months. These changes may be the result of settlements of ongoing audits or competent authority proceedings. At this time, an estimate of the range of the reasonably possible outcomes cannot be made.

We file income tax returns in the U.S. federal jurisdiction and in various state and foreign jurisdictions. We are no longer subject to U.S. federal income tax examinations by tax authorities for tax years before 2012 or tax year 2015. We are no longer subject to China income tax examinations by tax authorities for tax years before 2010. With respect to state and local jurisdictions and countries outside of the U.S., with limited exceptions, we are no longer subject to income tax audits for years before 2015. Although the outcome of tax audits is always uncertain, we believe that adequate amounts of tax, interest and penalties, if any, have been provided for in our reserve for any adjustments that may result from future tax audits. We recognize accrued interest and penalties, if any, related to unrecognized tax benefits in interest expense. We had an immaterial amount of accrued interest and penalties at December 31, 2020, 2019 and 2018.

Deferred Taxes

The table below sets forth our deferred tax assets and liabilities as of December 31:

	2020	2019
Deferred tax assets		
Inventory cost	\$ 15,154	\$ 10,423
Accrued expenses and accounts receivable	5,294	4,420
Foreign tax credits	-	5,848
Research and development tax credits	15,807	16,263
Net operating loss carryforwards	42,734	24,139
Lease obligations	2,982	3,773
Plant, equipment and intangible assets	162	-
Accrued pension	6,386	4,629
Share based compensation and others	8,810	7,805
	97,329	77,300
Valuation allowances	(45,591)	(29,414)
Total deferred tax assets, non-current	51,738	47,886
Deferred tax liabilities		
Plant, equipment and intangible assets	-	(13,816)
Right of use assets	(2,936)	(4,008)
Outside basis differences and others	(13,467)	(23,648)
Total deferred tax liabilities, non-current	(16,403)	(41,472)
Net deferred tax assets	\$ 35,335	\$ 6,414

ASU No. 2013-11 provides that an entity is required to present an unrecognized tax benefit, or a portion of an unrecognized tax benefit, in the financial statements as a reduction to a deferred tax asset for a net operating loss carryforward, a similar tax loss, or a tax credit carryforward. The \$23.2 million net deferred tax assets presented in the balance sheet as of December 31, 2020, is net of \$12.3 million of unrecognized tax benefits. The \$35.3 million and \$6.4 million net deferred tax asset presented above for December 31, 2020 and 2019, respectively, is prior to the net balance sheet presentation required by ASU 2013-11.

At December 31, 2020, we had federal and state tax credit and research credit carryforwards of approximately \$7 million and \$9 million, respectively, which are available to offset future income tax liabilities. The federal tax credit carryforwards begin to expire in 2032 and the state tax credit carryforwards will begin to expire in 2020. Consistent with prior years, we determined that it is more likely than not that our state research credit carryforwards will expire before they are utilized. During 2019 we determined that it is more likely than not that our federal tax credit carryforwards will be utilized before expiration. We released the previously recorded valuation allowances as a credit to income tax expense. The valuation allowances recorded against the related deferred tax assets totaled \$8 million as of December 31, 2020 and 2019.

At December 31, 2020, we had state net operating loss ("NOL") carryforwards of approximately \$1 million, and foreign NOL carryforwards of \$209 million which are available to offset future taxable income. The state NOL carryforward will begin to expire in 2021. We determined that it is more likely than not that the state NOL carryforwards will expire before they are fully utilized and recorded a full valuation allowance on the related deferred tax assets. The foreign NOL carryforwards will begin to expire in 2021. We determined that it is more likely than not that a portion of the foreign NOL carryforwards will expire before they are fully utilized. The valuation allowances recorded against the related deferred tax assets totaled \$32 million and \$19 million as of December 31, 2020 and 2019, respectively.

Supplemental Information

Our undistributed foreign earnings continue to be indefinitely reinvested in foreign operations, with limited exceptions related to earnings of European and Asian subsidiaries. As of December 31, 2020, we had undistributed earnings from non-U.S. operations of approximately \$1.6 billion (including approximately \$287 million of restricted earnings, which are not available for dividends). Undistributed earnings of our China subsidiaries comprise \$469 million of this total. Additional Chinese withholding taxes of approximately \$45 million would be required should the \$469 million of such earnings be distributed out of China as dividends.

The impact of tax holidays decreased our tax expense by approximately \$0.9 million, \$3.1 million and \$1.6 million for the years ended December 31, 2020, 2019 and 2018, respectively. The benefit of the tax holidays on basic and diluted earnings per share was \$0.02, \$0.06 and \$0.03 for the twelve months ended December 31, 2020, 2019 and 2018, respectively.

Note 13 – Employee Benefit Plans

Defined Benefit Plan

In connection with the Zetex acquisition, we adopted a contributory defined benefit plan that covers certain employees in the U.K. The defined benefit plan is closed to new entrants and frozen with respect to future benefit accruals. The retirement benefit is based on the final average compensation and service of each eligible employee. We determined the fair value of the defined benefit plan assets and utilize an annual measurement date of December 31. At subsequent measurement dates, defined benefit plan assets will be determined based on fair value. Defined benefit plan assets consist of a diverse range of listed and unlisted securities including corporate bonds and mutual funds and are denominated in the currency in which the benefits will be paid and that have terms to maturity approximating the terms of the related pension liability. The net pension and supplemental retirement benefit obligations and the related periodic costs are based on, among other things, assumptions of the discount rate, estimated return on plan assets and mortality rates. These obligations and related periodic costs are measured using actuarial techniques and assumptions. The projected unit credit method is the actuarial cost method used to compute the pension liabilities and related expenses. All unrecognized actuarial gains and losses, prior service costs and accumulated other comprehensive income are eliminated and the balance sheet liability is set equal to the funded status of the defined benefit plan at acquisition date. In October 2018, a U.K. High Court ruling required pension plans, subject to guaranteed minimum pension rules to amend their pension plan formulas to equalize benefits for men and women to adjust for unequal results previously calculated. The U.K. High Court ruling went on to require pension plans to make back payments subject to plan rule limitations, with interest applied at one percentage point over the Bank of England base rate. The guarantee equalization payment was allowed for by increasing the pension liability. Our portion of the total equalization amount was approximately £0.5 million (or approximately \$0.7 million based on GBP: USD exchange rate of 1:1.3). In connection with the LSC acquisition, we adopted a contributory defined benefit plan.

The table below sets forth net periodic benefit costs of the plan for the twelve months ended December 31:

	Defined Benefit Plan	
	2020	2019
Components of net periodic benefit cost:		
Service cost	\$ 257	\$ 256
Interest cost	3,035	4,069
Recognized actuarial loss	2,100	1,546
Expected return on plan assets	(7,405)	(7,511)
Prior service cost	56	55
Net periodic benefit cost	<u>\$ (1,957)</u>	<u>\$ (1,585)</u>

The table below sets forth the benefit obligation, the fair value of plan assets, and the funded status as of December 31:

	Defined Benefit Plan	
	2020	2019
Change in benefit obligation:		
Beginning balance	\$ 158,680	\$ 141,104
Service cost	257	255
Interest cost	3,027	4,045
Actuarial loss	12,522	11,214
Benefits paid	(4,769)	(4,158)
Currency changes	5,575	6,220
Benefit obligation at December 31	<u>\$ 175,292</u>	<u>\$ 158,680</u>
Change in plan assets:		
Beginning balance - fair value	\$ 132,621	\$ 117,162
Employer contribution	2,822	2,629
Actual return on plan assets	12,535	11,791
Benefits paid	(4,769)	(4,158)
Currency changes	4,652	5,197
Fair value of plan assets at December 31	<u>\$ 147,861</u>	<u>\$ 132,621</u>
Underfunded status at December 31	<u>\$ (27,431)</u>	<u>\$ (26,059)</u>

Based on an actuarial study performed as of December 31, 2020, the plan was underfunded by approximately \$27.4 million and the liability is reflected in our consolidated balance sheets as a noncurrent liability and the amount recognized in accumulated other comprehensive loss was approximately \$50.3 million.

We apply the “10% corridor” approach to amortize unrecognized actuarial gains (losses). Under this approach, only actuarial gains (losses) that exceed 10% of the greater of the projected benefit obligation or the market-related value of the plan assets are amortized. For the twelve months ended December 31, 2020, the plan’s total recognized loss increased by approximately \$5.3 million. The variance between the actual and expected return to plan assets during 2020 decreased the total unrecognized net loss by approximately \$5.1 million. The total unrecognized net loss is more than 10% of the projected benefit obligation and 10% of the plan assets. Therefore, the excess amount will be amortized over the average term to retirement of plan participants, not yet in receipt of pension, which as of December 31, 2020, was approximately 10.5 years. The following weighted-average assumptions were used to determine net periodic benefit costs for the twelve months ended December 31:

	2020	2019
Discount rate	1.3%	2.9%
Expected long-term return on plan assets	4.9%	6.4%

The following weighted-average assumption was used to determine the benefit obligations at December 31:

	2020	2019
Discount rate	1.3%	2.0%

The expected long-term return on plan assets was determined based on historical and expected future returns of the various asset classes. The plan’s investment policy includes a mandate to diversify assets and invest in a variety of asset classes to achieve its expected long-term return and is currently invested in a variety of funds representing most standard equity and debt security classes. Trustees of the plan may make changes at any time. The table below sets forth the plan asset allocations of the assets in the plan and expected long-term return by asset category:

Asset category	Expected long-term return	Asset allocation
Growth assets	6.9%	68%
Hedging assets	0.7%	30%
Cash	0.1%	2%

Benefit plan payments are primarily made from funded benefit plan trusts and current assets. The table below sets forth the expected future benefit payments, including future benefit accrual, as of December 31, 2020:

2021	\$	4,566
2022		4,945
2023		5,339
2024		5,688
2025		5,759
2026-2030		30,859

The trustees are required to review the funding position every three years. An actuarial valuation was performed as of March 31, 2019, resulting in a deficit of approximately GBP 26.7 million (approximately \$34.7 million based on a GBP: USD exchange rate of 1:1.3). As a result of this valuation we have agreed to a revised schedule of contributions of GBP 2.0 million (approximately \$2.6 million based on a GBP: USD exchange rate of 1:1.3) to be paid in annual installments with effect from April 1, 2020 to address the deficit revealed by the valuation (with the first payment made by March 31, 2021, and payments to be made by December 31 each year thereafter). These contributions, together with the assumed asset outperformance, are expected to eliminate the deficit by December 31, 2028. Further, we will pay GBP 0.2 million in annual installments effective April 1, 2020 to cover expenses.

The defined benefit plan’s investment strategy is to invest 65% in growth strategy assets and 35% in hedging strategy assets. The growth strategy consists of a highly diversified set of assets, and the hedging component is designed to hedge a significant proportion of the plan’s interest and inflation rate risks. The overall strategy is designed to return a long-term return of 2.6% p.a. above the liability benchmark which is broadly equal to changes in the plan’s liabilities.

The plan's trustees appoint fund managers to carry out all the day-to-day functions relating to the management of the fund and its administration. The fund managers must invest their portion of the plan's assets in accordance with their investment manager agreement agreed by the trustees. The trustees are responsible for agreeing these investment manager agreements and for deciding on the portion of the plan's assets that will be invested with each fund manager. When making decisions, the trustees take advice from experts including the plan's actuary and also have the option to consult with the Company.

The following table summarizes the major categories of the plan assets:

Asset category	December 31, 2020			
	Level 1	Level 2	Level 3	Total
Cash and cash equivalents	\$ 14,390	\$ -	\$ -	\$ 14,390
Equity securities:				
U.K.	-	1,066	-	1,066
Overseas equities	-	25,760	-	25,760
Emerging markets	-	7,607	-	7,607
Fixed income securities:				
Government bonds	-	751	-	751
Non-government bonds	-	11,858	-	11,858
Other types of investments				
Hedge funds	-	25,676	-	25,676
Property	-	2,693	-	2,693
Liability-driven investments	-	49,167	-	49,167
Commodities	-	8,890	-	8,890
Other	-	3	-	3
Total	\$ 14,390	\$ 133,471	\$ -	\$ 147,861

Fair value is taken to mean the bid value of securities, as supplied by the fund managers. All the plan's securities are publicly traded and highly liquid. The plan does not hold any Level 3 securities. See Note 3 for additional information regarding fair value and Levels 1, 2 and 3.

The investment manager agreements require the fund managers to invest in a diverse range of stocks and bonds across each particular asset class. The stocks held by the plan in a particular asset class should therefore match closely the underlying stocks in the relevant index. We believe that this leads to minimal concentration of risk within each asset class; although we recognize that some asset classes are inherently more risky than others.

We also have pension plans in Asia for which the benefit obligation, fair value of the plan assets and the funded status amounts are immaterial and therefore, not included in the amounts or assumptions above.

As of December 31, 2020, the Company has recorded a net liability of \$4.7 million related to the LSC defined benefit plan.

401(k) Retirement Plan

We maintain a 401(k) retirement plan (the "Plan") for the benefit of qualified employees at our U.S. locations. Employees who participate may elect to make salary deferral contributions to the Plan up to 100% of the employees' eligible payroll subject to annual Internal Revenue Code maximum limitations. We currently make a matching contribution of \$1 for every \$2 contributed by the participant up to 6% (3% maximum matching) of the participant's eligible payroll, which vests over an initial four years. In addition, we may make a discretionary contribution to the entire qualified employee pool, in accordance with the Plan.

As stipulated by the regulations of China, we maintain a retirement plan pursuant to the local municipal government for the employees in China. We are required to make contributions to the retirement plan at a rate between 10% and 22% of the employee's eligible payroll. Pursuant to the Taiwan Labor Standard Law and Factory Law, we maintain a retirement plan for the employees in Taiwan, whereby we make contributions at a rate of 6% of the employee's eligible payroll.

For the years ended December 31, 2020, 2019 and 2018, total amounts expensed under these plans were approximately \$10.2 million, \$16.3 million and \$17.0 million, respectively.

Deferred Compensation Plan

We maintain a Non-Qualified Deferred Compensation Plan (the “Deferred Compensation Plan”) for executive officers, key employees and members of the Board of Directors. The Deferred Compensation Plan allows eligible participants to defer the receipt of eligible compensation, including equity awards, until designated future dates. We offset our obligations under the Deferred Compensation Plan primarily by investing in the actual underlying investments. At December 31, 2020 and December 31, 2019, these investments totaled approximately \$12.8 million and \$12.9 million, respectively.

Note 14 – Share-Based Compensation

The table below sets forth the line items where share-based compensation expense was recorded for the twelve months ended December 31:

	2020	2019	2018
Cost of goods sold	\$ 1,064	\$ 925	\$ 362
Selling, general and administrative expense	21,013	16,687	17,395
Research and development expense	3,183	2,923	2,979
Total share-based compensation expense	<u>\$ 25,260</u>	<u>\$ 20,535</u>	<u>\$ 20,736</u>

The table below sets forth share-based compensation expense by type for the twelve months ended December 31:

	2020	2019	2018
Stock options	\$ -	\$ -	\$ 274
Share grants	25,260	20,535	20,462
Total share-based compensation expense	<u>\$ 25,260</u>	<u>\$ 20,535</u>	<u>\$ 20,736</u>

In May 2013, our stockholders approved our 2013 Equity Incentive Plan (“2013 Plan”). Since the approval of the 2013 Plan, all stock options are granted under the 2013 Plan, and we will not grant any further stock options under our 2001 Plan. Stock options under the 2013 Plan generally vest in equal annual installments over a four-year period and expire eight years after the grant date. The number of shares originally authorized to be awarded under the 2013 Plan was 6 million shares. In May 2017, our stockholders approved an amendment to the 2013 Plan, authorizing an additional 6 million shares to be awarded, bringing the total shares authorized to be awarded under the 2013 Plan to 12 million shares.

Share-based compensation expense for stock options granted in previous years was calculated on the date of grant using the Black-Scholes-Merton option-pricing model. No stock options were granted in any of the periods presented.

Total cash received from option exercises was approximately \$6.8 million, \$11.9 million and \$4.9 million during 2020, 2019 and 2018, respectively.

At December 31, 2020, there was no unrecognized compensation expense related to unvested options.

The table below sets forth a summary of activity in our stock option plan:

Stock Options	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (years)	Aggregate Intrinsic Value
Outstanding at December 31, 2017	1,228	22.85		
Exercised	(240)	20.28		
Outstanding at December 31, 2018	988	23.47		\$ 8,693
Exercised	(524)	22.68		\$ 10,600
Outstanding and Exercisable at December 31, 2019	464	24.37		\$ 14,849
Exercised	(272)	25.11		\$ 8,278
Outstanding and Exercisable at December 31, 2020	<u>192</u>	<u>23.32</u>	1.4	\$ 9,059

The table below sets forth information about stock options outstanding at December 31, 2020:

Plan	Range of Exercise Prices	Number Exercisable	Weighted Average Remaining Contractual Life (Years)	Weighted Average Exercise Price
2001 Plan	18.48 - 19.27	102	1.4	\$ 19.25
2013 Plan	27.92	90	1.4	27.92

Share Grants – Restricted stock awards and restricted stock units generally vest in equal annual installments over a four-year period. All new grants are granted under the 2013 Plan, and there will be no additional share grants under the 2001 Plan. Restricted stock grants are measured based on the fair market value of the underlying stock on the date of grant and compensation expense is recognized on a straight-line basis over the requisite four-year service period.

Performance stock units (“PSUs”) are measured based on the fair market value of the underlying stock on the date of grant and compensation expense is recognized over the three-year performance period, with adjustments made to the expense to recognize the probable payout percentage. PSUs will vest upon the Company achieving a cumulative 3-year non-GAAP operating income target for the applicable periods.

The table below sets forth a summary of our non-vested share grants in 2020, 2019 and 2018:

Nonvested at December 31, 2017	2,280	22.24		
Granted	646	32.06		
Vested	(1,213)	21.39		
Forfeited	(46)	24.72		
Nonvested at December 31, 2018	1,667	26.68		
Granted	670	38.15		
Vested	(573)	24.90		
Forfeited	(67)	30.44		
Nonvested at December 31, 2019	1,697	31.71		
Granted	573	48.83		
Vested	(770)	27.78	\$	37,620
Forfeited and other	88	38.31		
Nonvested at December 31, 2020	1,588	39.30	\$	111,947

During 2020, in connection with the retirement of a member of the Company’s board of directors, the Company modified that director’s unvested RSU grants to vest upon his retirement. The shares subject to the modified grants will be released to that board member as if they were vesting under the original vesting timeline. In connection with this modification, the Company recorded additional expense of approximately \$1.7 million. During 2018, we modified previously granted stock option and stock awards for two corporate officers who retired. The result of the modification was the acceleration of the vesting of 7,500 stock options and 79,720 stock awards for the corporate officers. The incremental expense recorded for this modification was approximately \$1.8 million, which was expensed in SG&A during 2018.

The total unrecognized share-based compensation expense as of December 31, 2020, was approximately \$44.8 million, relating to share grants, which was expected to be recognized over a weighted average period of approximately 2.2 years. The aggregate fair value amount of share grants that vested during 2020 was \$37.6 million.

Note 15 – Related Party Transactions

We historically conducted business with a related party company, Lite-On Semiconductor Corporation; (“LSC”), and its subsidiaries and affiliates. LSC was also our largest stockholder, owning approximately 15% of our outstanding Common Stock. As of November 30, 2020, we acquired LSC and they are no longer a stockholder or related party. We sold products to LSC totaling less than 1% of our net sales for the years ended December 31, 2020, 2019 and 2018, respectively. Raymond Soong, the former Chairman of the Board of Directors of Diodes, was the Chairman of LSC, and was the Chairman of Lite-On Technology Corporation (“LTC”), which was a significant shareholder of LSC. C.H. Chen, our former President and Chief Executive Officer and currently the Vice Chairman of the Board of Directors, was also Vice Chairman of LSC and a board member of LTC. Dr. Keh-Shew Lu, our current

Chairman of the Board of Directors, President and Chief Executive Officer, is a board member of LTC, and a board member of Nuvoton. We consider our relationships Nuvoton to be mutually beneficial and we plan to continue our strategic alliance with Nuvoton. We purchase wafers from Nuvoton for use in our production process. We also conduct business with Nuvoton Technology Corporation and its subsidiaries and affiliates (collectively, “Nuvoton”).

We also conduct business with Keylink International (B.V.I.) Inc. and its subsidiaries and affiliates (“Keylink”). Keylink is our 5% joint venture partner in our Shanghai assembly and test facilities. We sell products to, and purchase inventory from, companies owned by Keylink. We sold products to companies owned by Keylink, totaling approximately 2% for the 12 months ended December 31, 2020 and 1% of net sales for each of the twelve month periods ended December 31, 2019 and 2018. In addition, our subsidiaries in China lease their manufacturing facilities in Shanghai from, and subcontract a portion of our manufacturing process (metal plating and environmental services) to, Keylink. We also pay a consulting fee to Keylink. The aggregate amounts paid to Keylink for the years ended December 31, 2020, 2019 and 2018 were approximately \$14.6 million, \$15.3 million and \$16.6 million, respectively. In addition, Chengdu Ya Guang Electronic Company Limited (“Ya Guang”) is our 2% joint venture partner in one of our Chengdu assembly and test facilities and our 5% partner in our other Chengdu assembly and test facilities; however, we have no material transactions with Ya Guang, other than this joint venture. We also purchase materials from Jiyuan Crystal Photoelectric Frequency Technology Ltd. (“JCP”) an FCP manufacturing company in which we have made an equity investment and account for using the equity method of accounting.

The Audit Committee of the Board reviews all related party transactions for potential conflict of interest situations on an ongoing basis, all in accordance with such procedures as the Audit Committee may adopt from time to time.

The table below sets forth net sales and purchases from related parties for the twelve months ended December 31:

	2020	2019	2018
LSC, its subsidiaries and affiliates			
Net sales	\$ 518	\$ 912	\$ 1,179
Purchases	\$ 12,062	\$ 13,799	\$ 21,126
Keylink			
Net sales	\$ 19,757	\$ 15,543	\$ 12,227
Purchases	\$ 1,538	\$ 2,399	\$ 3,581
Nuvoton			
Net sales	\$ 10	\$ -	\$ -
Purchases	\$ 8,418	\$ 7,719	\$ 11,152
JCP			
Purchases	\$ 1,095	\$ 625	\$ 600

The table below sets forth accounts receivable from and accounts payable to related parties at December 31:

	2020	2019
LSC, its subsidiaries and affiliates		
Accounts receivable	N/A	\$ 184
Accounts payable	N/A	\$ 2,154
Keylink		
Accounts receivable	\$ 35,365	\$ 31,598
Accounts payable	\$ 31,247	\$ 28,244
Nuvoton		
Accounts receivable	\$ 10	\$ -
Accounts payable	\$ 796	\$ 1,055
JCP		
Accounts payable	\$ 357	\$ 173

Note 16 – Segment Information, Revenue and Enterprise-Wide Disclosures

Segment Reporting. For financial reporting purposes, we operate in a single segment, standard semiconductor products, through our various manufacturing and distribution facilities. We aggregate our products because the products are similar and have similar economic characteristics, use similar production processes and share the same customer type. Our primary operations include operations in Asia, North America and Europe. The accounting policies of the operating entities are the same as those described in the summary of significant accounting policies. No customer accounted for 10% or more of our net sales during the twelve months ended 2020. During the twelve months ended December 31, 2019 and 2018, one customer, a broad-based global distributor that sells to thousands of different end users, accounted for approximately 10.0% or \$119.6 million and \$120.0 million, respectively, of our net sales. No customer accounted for 10% or greater of our outstanding accounts receivable at December 31, 2020 or 2019.

The tables below set forth net sales based on the location of the subsidiary producing the net sale:

2020	Asia	North America	Europe	Consolidated
Total sales	\$ 1,399,517	\$ 807,405	\$ 222,227	\$ 2,429,149
Inter-company sales	(565,723)	(531,385)	(102,826)	(1,199,934)
Net sales	<u>\$ 833,794</u>	<u>\$ 276,020</u>	<u>\$ 119,401</u>	<u>\$ 1,229,215</u>
Property, plant and equipment	<u>\$ 421,185</u>	<u>\$ 24,726</u>	<u>\$ 84,904</u>	<u>\$ 530,815</u>
Assets	<u>\$ 1,522,835</u>	<u>\$ 229,610</u>	<u>\$ 227,012</u>	<u>\$ 1,979,457</u>
2019	Asia	North America	Europe	Consolidated
Total sales	\$ 1,234,750	\$ 612,697	\$ 234,092	\$ 2,081,539
Inter-company sales	(418,377)	(320,746)	(93,286)	(832,409)
Net sales	<u>\$ 816,373</u>	<u>\$ 291,951</u>	<u>\$ 140,806</u>	<u>\$ 1,249,130</u>
Property, plant and equipment	<u>\$ 379,075</u>	<u>\$ 23,104</u>	<u>\$ 67,395</u>	<u>\$ 469,574</u>
Assets	<u>\$ 1,207,331</u>	<u>\$ 216,250</u>	<u>\$ 215,803</u>	<u>\$ 1,639,384</u>
2018	Asia	North America	Europe	Consolidated
Total sales	\$ 1,069,068	\$ 179,459	\$ 195,406	\$ 1,443,933
Inter-company sales	(150,421)	(24,322)	(55,201)	(229,944)
Net sales	<u>\$ 918,647</u>	<u>\$ 155,137</u>	<u>\$ 140,205</u>	<u>\$ 1,213,989</u>
Property, plant and equipment	<u>\$ 392,445</u>	<u>\$ 30,507</u>	<u>\$ 23,883</u>	<u>\$ 446,835</u>
Assets	<u>\$ 1,095,037</u>	<u>\$ 240,540</u>	<u>\$ 190,794</u>	<u>\$ 1,526,371</u>

Disaggregation of Revenue. We disaggregate net sales from contracts with customers into direct sales and distribution sales (“Distributors”) and by geographic area. Direct sales customers consist of those customers using our product in their manufacturing process, and Distributors are those customers who resell our products to third parties. We deliver our products to customers around the world for use in consumer electronics, computing, communications, industrial and automotive. Further, most of our contracts are fixed-price arrangements, and are short term in nature, ranging from days to several months.

The tables below set forth net sales for the Company disaggregated into geographic locations based on shipment and by type (*direct sales or distributor*) for the twelve months ended December 31, 2020, 2019 and 2018:

Net Sales by Region	Net Sales by Type for the Twelve Months Ended December 31,		
	2020	2019	2018
Asia	\$ 961,376	\$ 942,577	\$ 944,118
Europe	171,985	181,015	138,117
Americas	95,854	125,538	131,754
Total net sales	\$ 1,229,215	\$ 1,249,130	\$ 1,213,989

Net Sales by Type	2020	2019	2018
Direct sales	\$ 419,024	\$ 407,851	\$ 346,997
Distributor sales	810,191	841,279	866,992
Total net sales	\$ 1,229,215	\$ 1,249,130	\$ 1,213,989

Net sales from products shipped to China for the twelve months ended December 31, 2020, 2019 and 2018, was \$649.9 million \$633.8 million and \$662.6 million, respectively.

Note 17 – Commitments and Contingencies

Lease commitments – We lease offices, manufacturing plants, equipment, vehicles and warehouses under various lease agreements expiring through 2028. For information related to our lease commitments see Note 9.

In addition, we have the following land right leases. None of the leases requires a rental payment.

Location	Term (years)	Expiration Date
Chengdu, China	50	2061
Shanghai, China*	50	2056
Shandong, China	50	2058
Shanghai, China*	50	2058
Yangzhou, China	50	2065

*Separate leases by separate Diodes' subsidiaries

Purchase commitments – We have entered into non-cancelable purchase contracts for capital expenditures, primarily for manufacturing equipment, for approximately \$21.9 million at December 31, 2020. As of December 31, 2020, we also had a commitment to purchase approximately \$53.0 million of wafers to be used in our manufacturing process. These wafer purchases will occur from 2021 to 2023

Contingencies - From time to time, we are involved in various legal proceedings that arise in the normal course of business. While we intend to defend any lawsuit vigorously, we presently believe that the ultimate outcome of any current pending legal proceeding will not have any material adverse effect on our financial position, cash flows or operating results. However, litigation is subject to inherent uncertainties, and unfavorable rulings could occur. An unfavorable ruling could include monetary damages, which could impact on our business and operating results for the period in which the ruling occurs or future periods. Based on information available, we evaluate the likelihood of potential outcomes. We record the appropriate liability when the amount is deemed probable and reasonably estimable. In addition, we do not accrue for estimated legal fees and other directly related costs as they are expensed as incurred. The Company is not currently a party to any pending litigation that the Company considers material.

Note 18 – Derivative Financial Instruments

In accordance with ASC 815 we recognize derivative instruments on our balance sheet, and we measure them at fair value. The accounting for changes in the fair value of derivatives depends on the intended use of the derivative, whether we have elected to designate the derivative as being in a hedging relationship, and whether the hedging relationship has satisfied the criteria necessary to apply hedge accounting. Derivative instruments that are designated, and qualify as hedges of the exposure to changes in the fair value are considered fair value hedges. Derivative instruments that are designated, and qualify as hedges of the exposure to variability in expected future cash flows are considered cash flow hedges. Derivative instruments may also be designated as hedges of the foreign currency exposure of a net investment in a foreign operation. We currently only utilize cash flow hedges and do not use derivatives for trading or speculative purposes.

Hedge accounting generally provides for the matching of the timing of gain or loss recognition on the hedging instrument with the recognition of the changes in the fair value of the hedged asset or liability that are attributable to the hedged risk in a fair value hedge, or the earnings effect of the hedged forecasted transactions in a cash flow hedge. We may enter into derivative contracts that are intended to economically hedge certain risks, even though we elect not to apply hedge accounting under ASC 815. Changes in the fair value of derivatives not designated in hedging relationships are recorded directly in the consolidated statements of income. Specific information about the valuations of derivatives is described in Note 1 and classification of derivatives in the fair value hierarchy is described in Note 3. Currently our interest rate swaps and interest rate collars are designated as hedges while our foreign exchange contracts are not designated as hedges.

The effective portion of changes in the fair value of derivatives designated and qualifying as cash flow hedges is recorded in accumulated other comprehensive loss and is subsequently reclassified into earnings in the period in which the hedged forecasted transaction affects earnings.

Certain of the Company's agreements with its derivative counterparties contain provisions where if certain merger activity, a change of control, or a capital structure change occurs that materially changes the Company's creditworthiness in an adverse manner, the Company's counterparty may have the right to terminate any derivative transactions under such agreement.

The company has agreements with each of its derivative counterparties that contain a provision where the Company could be declared in default on its derivative obligations if repayment of the underlying indebtedness is accelerated by the lender due to the Company's default on the indebtedness.

Hedges of Foreign Currency Risk

We are exposed to fluctuations in various foreign currencies against our different functional currencies. We use foreign currency forward agreements to manage this exposure. At December 31, 2020 and 2019, we had outstanding foreign currency forward contracts that are intended to preserve the economic value of foreign currency denominated monetary assets and liabilities; these instruments are not designated for hedge accounting treatment in accordance with ASC 815. One of our foreign currency forward agreements has a fair value of \$1.8 million and is recorded in our Consolidated Balance Sheets.

The tables below set forth outstanding foreign currency forward contracts at December 31, 2020 and 2019:

Notional Amount	Effective Date	Maturity Date	Index*	Weighted Average Strike Rate	Cash Flow Hedge Designation
1,205	December 2020	February 2021	EUR/GBP	0.8948	Non-designated
2,202	December 2020	February 2021	EUR/USD	1.2218	Non-designated
12,879	December 2020	February 2021	GBP/USD	1.3654	Non-designated
213,508	April 2020 - December 2020	January 2021 - May 2021	USD/CNY	6.5806	Non-designated
3,189	December 2020	February 2021	USD/JPY	103.3150	Non-designated
43,180	January 2020 - December 2020	January 2021 - May 2021	USD/TWD	28.1442	Non-designated
\$ 276,163					
\$ 1,844	December 2019	February 2020	EUR/GBP	0.8471	Non-designated
3,375	December 2019	February 2020	EUR/USD	1.1230	Non-designated
25,957	December 2019	February 2020	GBP/USD	1.3257	Non-designated
39,340	December 2019	February 2020	USD/CNY	6.9762	Non-designated
763	December 2019	February 2020	USD/JPY	108.7320	Non-designated
33,621	December 2019	February 2020	USD/TWD	29.9880	Non-designated
500	January 2019	January 2020	USD/TWD	30.6350	Non-designated
500	October 2019	February 2020	USD/TWD	30.5710	Non-designated
\$ 105,900					

* EUR = Euro

GBP = British Pound Sterling

USD = United States Dollar

CNY = Chinese Yuan Renminbi

JPY = Japan Yen

TWD = Taiwan dollar

Hedges of Interest Rate Risk

The Company's objectives in using interest rate derivatives are to add stability to interest expense and to manage its exposure to interest rate movements. To accomplish this objective, the Company primarily uses interest rate swaps, including interest rate collars, as part of its interest rate risk management strategy. Interest rate swaps designated as cash flow hedges involve the receipt of variable amounts from a counterparty in exchange for the Company making fixed-rate payments over the life of the agreements without exchange of the underlying notional amount.

The table below sets forth information related to the number of and the notional amount of our interest rate related derivative instruments at December 31 2020 and December 31, 2019:

	Number of Instruments		Notional Amount	
	2020	2019	2020	2019
Interest rate swaps and collars	6	9	\$ 140,000	\$ 200,000

The table below sets forth the fair value of the Company's interest rate related derivative financial instruments as well as their classification on the Consolidated Balance Sheets as of December 31, 2020 and December 31, 2019:

	Fair Value							
	Other Current Assets		Other Assets		Other Current Liabilities		Other Liabilities	
	2020	2019	2020	2019	2020	2019	2020	2019
Interest rate swaps and collars	\$ -	\$ 194	\$ -	\$ 36	\$ 1,626	\$ 51	\$ -	\$ 127

The tables below sets forth the effect of the Company's derivative financial instruments on the Consolidated Statements of Income for the years ended December 31, 2020, 2019 and 2018:

Derivative Instruments Designated as Hedging Instruments	Amount of Gain or (Loss) Recognized in OCI on Derivative			Location of Gain or (Loss) Reclassified from Accumulated OCI into Income	Amount of Gain or (Loss) Reclassified from Accumulated OCI into Net Income			Location of Gain or (Loss) Recognized in Income on Derivative (Ineffective Portion Excluded from Effectiveness Testing)	Amount of Gain or (Loss) Recognized in Income on Derivative (Ineffective Portion and Amount Excluded from Effectiveness Testing)			
	December 31,				December 31,				December 31,	December 31,		
	2020	2019	2018		2020	2019	2018			2020	2019	2018
Interest rate swaps and collars	\$ (1,581)	\$ (2,997)	\$ 1,790	Interest expense	\$ (445)	\$ 1,248	\$ 860	N/A	\$ -	\$ -	\$ -	
Cross currency swaps	(2,305)	(298)	-	N/A	-	-	-	Interest income	-	688		

We estimate that \$0.5 million of net derivative losses included in accumulated other comprehensive income ("AOCI") as of December 31, 2020, will be reclassified into earnings within the following 12 months. No gains or losses were reclassified from AOCI into earnings as a result of forecasted transactions that failed to occur during fiscal year 2020.

Derivatives Not Designated As Hedging Instruments	Amount of Gain or (Loss) Recognized in Net Income			Location of Gain or (Loss) Recognized in Net Income
	2020	2019	2018	
Foreign currency forward contracts	\$ 3,584	\$ (3,662)	\$ (8,493)	Foreign currency loss, net

At December 31, 2020 and 2019, the fair value of derivatives in a net asset position, which includes accrued interest but excludes any adjustments for nonperformance risk, related to these agreements was \$1.6 million and \$0.1 million, respectively. As of December 31, 2020 and 2019, the Company had not posted any collateral related to these agreements.

Note 19 – Business Acquisitions

LSC Acquisition

On November 30, 2020 the Company closed on the previously announced acquisition of Lite-On Semiconductor ("LSC"), a Taiwan-based supplier of "green" power-related discrete analog semiconductor devices. The Company purchased LSC in order to include LSC's "green" power-related semiconductor devices that are designed for power saving and low power dissipation to serve the power supply market, and to reacquire the 7,765,778 Diodes shares owned by LSC, which was approximately 15% of Diodes' outstanding shares prior to the close of such acquisition. The Company recorded the purchase of LSC as a business combination, with Diodes owning 100% of LSC. LSC has been consolidated into the operations of Diodes. The purchase price per the Share Swap Agreement, was 42.50 TWD per outstanding LSC share. On November 30, 2020, Diodes acquired the 307,371,139 outstanding shares for a total aggregate purchase price of approximately \$453.4 million. The acquisition was funded with cash previously drawn from the Second and Amended and Restated Credit Agreement, see Note 8 for additional information. In connection with the acquisition, the Company incurred acquisition costs of approximately \$3.5 million that were recognized in selling, general and administrative expense. There was \$16.9 million of revenue and \$1.6 million of net income attributable to LSC included within the Company's statement of operations for the year ended December 31, 2020. The net income generated by LSC was primarily attributable to investments held by LSC and not the continuing operations of the business.

The reacquired shares were treated as a settlement of a pre-existing relationship and as a transaction separate and apart from the business combination along with the settlement of payables and receivables between Diodes and LSC. There was no gain or loss on the settlement of the payables and receivables between the Company and LSC. The cash attributed to the reacquisition of the Diodes shares is presented within the financing section of the statement of cash flows.

Total consideration paid	\$	453.4
Less: Settlement of pre-existing relationships		
Reacquisition of Diodes stock owned by LSC (1)		(296.8)
Net accounts receivable on LSC books owed by Diodes		(2.6)
Total amount of pre-existing relationship settled		<u>(299.4)</u>
Remaining consideration	\$	<u>154.0</u>

(1) Value determined based on closing price of Diodes' stock on the date the acquisition agreement.

The table below sets forth the fair value of the assets acquired and liabilities assumed based on relative fair value at the date of acquisition and the corresponding line item in the Company's consolidated balance sheet at the date of acquisition. U.S. GAAP permits companies to complete the final determination of the fair values during the measurement period from the acquisition date. The size and breadth of the LSC acquisition will necessitate the use of this measurement period to adequately analyze and assess a number of the factors used in establishing the asset and liability fair values as of the acquisition date including (i) changes in fair values of property, plant and equipment and inventories, (ii) changes in fair value of certain liabilities assumed and (iii) tax impact associated with any other changes in fair value. Any potential adjustments made could be material in relation to the preliminary values. A final determination of the assets acquired and liabilities assumed has not been completed and the following table is considered preliminary. The Company engaged a third party valuation specialist to assist with the assessment of any intangibles assets acquired as part of the LSC acquisition and it was determined that there were no intangible assets as a result of the LSC acquisition.

Cash and cash equivalents	\$	131,046
Accounts receivable		44,896
Inventories		55,710
Prepaid expenses and other current assets		11,447
Property, plant and equipment		67,952
Deferred income tax		15,732
Other long-term assets		26,037
Total assets acquired		<u>352,820</u>
Line of credit		88,508
Accounts payable		35,245
Accrued liabilities and other		48,992
Income tax payable		6,264
Deferred tax liabilities		8,941
Other long-term liabilities		10,783
Total liabilities assumed		<u>198,733</u>
Non-controlling interest		54
Net assets acquired	\$	<u>154,033</u>

The following unaudited pro forma summary presents consolidated information of the Company as if the acquisition and consolidation of LSC had occurred on January 1, 2019:

	Twelve Months Ended December 31, 2020		Twelve Months Ended December 31, 2019	
Net revenues	\$	1,421,494	\$	1,447,001
Net income	\$	95,908	\$	140,027
Net income attributable to common stockholders	\$	96,517	\$	139,603
Earnings per share - basic	\$	2.23	\$	3.24
Earnings per share - diluted	\$	2.18	\$	3.17

The unaudited pro forma consolidated results of operations do not purport to be indicative of the results that would have been obtained if the above acquisition had actually occurred as of the dates indicated or of those results that may be obtained in the future. The unaudited proforma consolidated results for year ended December 31, 2020, include adjustments that result in a reduction to amortization and depreciation of \$5.5 million, removal of sales to Diodes on the books of LSC and related cost of goods sold of \$12.4 million and \$7.9 million, respectively, removal of LSC's share of Diodes' profits as a 15% shareholder of \$13.1 million, removal of

\$2.4 million of transaction costs, additional interest expense of \$6.0 million, removal of impairment charges of \$6.3 million, removal of operations of On-Bright, and a tax impact of those adjustments of a reduction to tax expense of \$18.6 million.

The unaudited proforma consolidated results for year ended December 31, 2019, include adjustments that result in a reduction to amortization and depreciation of \$8.8 million, removal of sales to Diodes on the books of LSC and related COGS of \$13.7 million and \$9.0 million, respectively, removal of LSC's share of Diodes' profits as a 15% shareholder of \$23.4 million, removal of \$1.0 million of transaction costs, additional interest expense of \$11.1 million, removal of impairment charges of \$0.3 million, removal of the operation of On-Bright, and a tax impact of those adjustments of a reduction to tax expense of \$10.7 million. These unaudited pro forma consolidated results of operations were derived, in part, from the historical consolidated financial statements of LSC and other available information and assumptions believed to be reasonable under the circumstances. LSC will be conformed to Diodes' reporting calendar.

Savitech Acquisition

On February 5, 2020, the Company entered into an agreement to invest up to approximately \$14.2 million to acquire at least 51% of Savitech Corporation ("Savitech"), a fabless semiconductor design company located in Zhubei City, Taiwan. The Company will make the investment in two tranches. The first tranche of \$5.6 million, which provided the Company with a 33.6% ownership of Savitech, was made on March 4, 2020. The initial tranche was funded with cash on hand. The second tranche, currently recorded in other current liabilities, as shown in the table below, and currently valued at \$8.5 million will increase the Company's ownership to at least 51% of Savitech. The second tranche will be paid on June 30, 2021, provided Savitech achieves previously agreed-to revenue levels. If revenue levels are not achieved the Company will pay less than the maximum \$8.6 million, but regardless of the amount paid for the second tranche, the Company will still acquire at least 51% of Savitech.

The Company recorded the purchase of Savitech as a business acquisition and will consolidate Savitech into its operations, based on the voting model, with a non-controlling interest related to the interest the Company does not own in Savitech. The Company made its investment in Savitech in order to increase the Company's integrated circuit business. Total purchase consideration recorded was \$13.9 million. The goodwill will not be tax deductible. The Company also incurred acquisition costs of approximately \$0.1 million that were recognized in selling, general and administrative expense. The table below sets forth the fair value of the assets and liabilities recorded in the acquisition and the corresponding line item in which the item is recorded in our condensed consolidated balance sheet at the date of acquisition.

Cash and cash equivalents	\$	6.2
Prepaid expenses and other		0.7
Goodwill		13.9
Intangible assets, net		6.1
Other long-term assets		0.4
Accrued liabilities and other		9.9
Noncontrolling interest		11.8

Wafer Fabrication Facility Acquisition

On April 1, 2019, the Company completed the previously announced acquisition of GFAB. The Company recorded the purchase of GFAB as a business acquisition. The Company purchased GFAB in order to increase the Company's wafer production capacity. Total consideration paid by the Company was \$33.2 million and was funded by advances under the revolving portion of our long-term credit facility. The facility and assets were wholly acquired, and there is no remaining minority interest. The goodwill will not be tax deductible. The Company also incurred acquisition costs of approximately \$0.6 million that were recognized in selling, general and administrative expense. Due to a lack of data we are unable to provide historical financial pro forma data. The table below sets forth the fair value of the assets and liabilities recorded in the GFAB acquisition and the corresponding line item in which the item is recorded in our condensed consolidated balance sheet.

Property, plant and equipment	\$	24.4
Inventories		3.6
Prepaid expenses and other		5.2
Goodwill		0.9
Deferred tax liabilities		1.0

Note 20 – Selected Quarterly Financial Data (Unaudited)

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
2020				
Net sales	\$ 280,717	\$ 288,669	\$ 309,459	\$ 350,370
Gross profit	95,842	101,492	111,090	122,697
Net income attributable to common shareholders	20,168	21,033	27,152	29,735
Earnings per share attributable to common shareholders				
Basic	\$ 0.39	\$ 0.41	\$ 0.52	\$ 0.60
Diluted	\$ 0.38	\$ 0.40	\$ 0.51	\$ 0.59
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
2019				
Net sales	\$ 302,293	\$ 322,006	\$ 323,674	\$ 301,157
Gross profit	112,411	121,988	122,046	109,362
Net income (loss) attributable to common shareholders	31,716	36,284	38,060	47,190
Earnings (loss) per share attributable to common shareholders				
Basic	\$ 0.63	\$ 0.72	\$ 0.75	\$ 0.90
Diluted	\$ 0.62	\$ 0.70	\$ 0.73	\$ 0.90

Note: The sum of the quarterly earnings per share may not equal the full year amount, as the computations of the weighted average number of common shares outstanding for each quarter and for the full year are performed independently.

NOTE 21 – Subsequent Event

On January 22, 2021, Diodes Hong Kong Limited (the “Borrower”), a company incorporated under the laws of Hong Kong and a subsidiary of Diodes Incorporated (“Diodes Incorporated”), entered into a Facility Agreement (the “Facility Agreement”) with The Hongkong and Shanghai Banking Corporation Limited, as Arranger (the “Arranger”), the financial institutions listed in Schedule 1 thereto, The Hongkong and Shanghai Banking Corporation Limited, as Agent, and The Hongkong and Shanghai Banking Corporation Limited, as Security Agent (the “Security Agent”). In addition, on January 22, 2021, the Borrower entered into a Hong Kong Debenture (the “Debenture”) with the Security Agent. In connection with the Facility Agreement and the Debenture, Diodes Incorporated executed a letter of awareness for the benefit of the Hongkong and Shanghai Banking Corporation Limited (the “Letter of Awareness”). Certain capitalized terms used in the following description of the Facility Agreement have the meanings given to them in the Facility Agreement. Certain capitalized terms used in the following description of the Debenture have the meanings given to them in the Debenture.

Pursuant to the Facility Agreement, the Lenders agreed to make available to the Borrower a US Dollar revolving loan facility in an aggregate amount equal to \$100,000,000. The interest rate on Loans made under the Facility will be the sum of the Margin and LIBOR. The Margin is equal to 1.25%, in the event the Consolidated Leverage Ratio is less than 1.50:1. The Margin increases, on a sliding scale, as the Consolidated Leverage Ratio increases up to a maximum of 2.25% if the Consolidated Leverage Ratio is greater than 3.00:1. The Non-utilisation Fee payable on the undrawn and uncanceled amount of each Lender’s Commitment under the Facility is also dependent upon the Consolidated Leverage Ratio. The Non-utilisation Fee is 0.15% if the Consolidated Leverage Ratio is less than 1.50:1. The Non-utilisation Fee increases, on a sliding scale, as the Consolidated Leverage Ratio increases up to a maximum of 0.35% if the Consolidated Leverage Ratio is greater than or equal to 3.00:1.

The Facility matures on January 22, 2023 (the “Final Repayment Date”). The Availability Period extends from January 22, 2021 through December 22, 2022. Unutilized Commitments will be cancelled at 5 p.m. on the last day of the Availability Period. The Borrower will be able to borrow funds under the Facility on a revolving basis during the Availability Period, however, all borrowed amounts must be repaid on or prior to the Final Repayment Date unless the Facility is extended or refinanced. Neither Diodes Incorporated nor the Borrower can provide any assurances regarding whether the Facility will be extended or refinanced or the terms of any such hypothetical future extension or refinancing. The Borrower plans to use a portion of the proceeds available under the Facility (i) to refinance certain existing indebtedness of the Borrower and (ii) to finance its working capital requirements and its general corporate purposes.

The Facility Agreement contains certain financial and non-financial covenants, including, but not limited to, a maximum Leverage Ratio, a minimum Tangible Net Worth, a minimum Interest Cover Ratio, and restrictions on payments of dividends (solely if

at the time of, or as a result of, such declaration or payment, an Event of Default is continuing or would occur). The Facility Agreement is governed by the laws of Hong Kong.

Pursuant to the Debenture, the Borrower granted to the Security Agent, on behalf of itself and the other Secured Parties, a security interest over all present and future Security Assets of the Borrower. The security interest is continuing security for the payment, discharge and performance of all of the Secured Liabilities, which includes the Borrower's payment obligations under the Facility Agreement. The Debenture is governed by the laws of Hong Kong.

Pursuant to the Letter of Awareness, Diodes Incorporated agreed, among other things, to notify the Arranger in the event of any decision being taken to dispose of the whole or any part of Diodes Incorporated's shareholding in the Borrower. The Letter of Awareness is interpreted according to Hong Kong law.

INDEX TO EXHIBITS

<u>Number</u>	<u>Description</u>	<u>Form</u>	<u>Date of First Filing</u>	<u>Exhibit Number</u>	<u>Filed Herewith</u>
3.1	Certificate of Incorporation, as amended	10-K	February 20, 2018	3.1	
3.2	Amended By-laws of the Company, amended as of January 6, 2016	8-K	January 11, 2016	3.1	
4.1	Form of Certificate for Common Stock, par value \$0.66-2/3 per share	S-3	August 25, 2005	4.1	
4.2	Description of Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934	10-K	February 12, 2020	4.2	
10.1*	Stock Award Agreement dated as of September 22, 2009, between the Company and Keh-Shew Lu	10-Q	May 9, 2014	10.6	
10.2*	Confirmation Agreement dated April 1, 2013, between the Company and Keh-Shew Lu	8-K	April 3, 2013	99.1	
10.3*	Employment Agreement dated as of July 21, 2015, between the Company and Keh-Shew Lu	8-K	July 27, 2015	99.1	
10.4*	Stock Unit Agreement, dated as of July 21, 2015, between the Company and Keh-Shew Lu	8-K	July 27, 2015	99.3	
10.5*	Amendment No. 1 to Employment Agreement dated as of February 22, 2017, between the Company and Keh-Shew Lu.	8-K	February 27, 2017	99.1	
10.6*	Employment agreement dated as of August 29, 2005, between the Company and Mark King	8-K	September 2, 2005	10.2	
10.7*	Separation letter between the Company and Mark King, dated January 11, 2018	10-Q	May 8, 2018	10.1	
10.8*	Separation letter between the Company and Ed Tang, dated January 18, 2018	10-Q	May 8, 2018	10.2	
10.9*	Form of Indemnification Agreement between the Company and its directors and executive officers	8-K	September 2, 2005	10.5	
10.10*	Diodes Incorporated 2001 Omnibus Equity Incentive Plan, as amended and restated December 22, 2008	10-K	February 26, 2009	10.87	
10.11*	Diodes Incorporated Second Amended and Restated Deferred Compensation Plan effective January 1, 2009	10-K	February 27, 2017	10.9	
10.12*	First Amendment to the Diodes Incorporated Second Amended and Restated Deferred Compensation Plan effective June 1, 2013	10-K	February 27, 2017	10.10	
10.13*	Diodes Incorporated 2013 Equity Incentive Plan, as amended and restated on May 3, 2017	S-8	August 17, 2017	99.1	
10.14*	Form of Incentive Stock Option Agreement for the Diodes Incorporated 2013 Equity Incentive Plan	S-8	June 13, 2013	99.2	
10.15*	Form of Stock Unit Agreement for the Diodes Incorporated 2013 Equity Incentive Plan	S-8	June 13, 2013	99.4	

Number	Description	Form	Date of First Filing	Exhibit Number	Filed Herewith
10.15.1*	Form of Restricted Stock Unit Agreement	8-K	February 27, 2017	99.2	
10.15.2*	Form of Performance Stock Unit Agreement	8-K	February 27, 2017	99.3	
10.16*	Form of Nonstatutory Stock Option Agreement for the Diodes Incorporated 2013 Equity Incentive Plan, as amended (Domestic Version)	10-K	February 27, 2014	10.80	
10.17*	Form of Nonstatutory Stock Option Agreement for the Diodes Incorporated 2013 Equity Incentive Plan (International Version)	10-K	February 27, 2014	10.81	
10.18*	Form of Unit Stock Agreement for the Diodes Incorporated 2013 Equity Incentive Plan, as amended (Domestic Version)	10-K	February 27, 2014	10.82	
10.19*	Form of Stock Unit Agreement for the Diodes Incorporated 2013 Equity Incentive Plan (International Version)	10-K	February 27, 2014	10.83	
10.20*	Form of Stock Unit Agreement (Substitute for Pericom Semiconductor Corporation Domestic Existing RSUs and Options)	S-8	June 30, 2016	99.2	
10.21*	Form of Stock Unit Agreement (Substitute for Pericom Semiconductor Corporation International Existing RSUs and Options)	S-8	June 30, 2016	99.3	
10.22	Joint Venture Agreement dated as of March 18, 1996, between the Company and J.H. Xing	10-K	April 1, 1996	10.17	
10.23	Sale and Leasing Agreement dated as of March 30, 2002, between Shanghai Kaihong Electronic Ltd. and Shanghai Ding Hong Electronics Company, Ltd.	10-Q	May 15, 2002	10.46	
10.24	Lease Agreement dated as of March 30, 2002, between Shanghai Kaihong Electronic Company, Ltd. and Shanghai Ding Hong Electronic Equipment, Ltd.	10-Q	May 15, 2002	10.47	
10.25	Lease Agreement dated as of September 30, 2003, between Shanghai Kaihong Electronic Co., Ltd. and Shanghai Ding Hong Electronic Equipment, LTD.	10-Q	August 9, 2004	10.52	
10.25.1	Supplementary to the Lease Agreement between Shanghai Kaihong Electronic Co. Ltd., and Shanghai Ding Hong Electronic Co., Ltd.	10-Q	August 9, 2004	10.58	
10.26	Amendment to the Sale and Lease Agreement, dated as of September 30, 2004, between Shanghai Ding Hong Electronic Equipment Ltd. and Shanghai Kai Hong Electronic Company, Limited	10-Q	August 9, 2004	10.56	
10.27	Lease Agreement dated as of June 28, 2004, between Diodes Shanghai Co., Ltd. and Shanghai Yuan Hao Electronic Co., Ltd.	10-Q	August 9, 2004	10.57	

Number	Description	Form	Date of First Filing	Exhibit Number	Filed Herewith
10.27.1	Supplement to Lease Agreement dated January 1, 2007, for Disposal of Waste and Scraps, between Shanghai Kai Hong Technology Co., Ltd. and Shanghai Yuan Hao Electronic Co., Ltd.	10-K	February 29, 2008	10.50	
10.27.2	Supplementary Agreement dated December 31, 2007, between Shanghai Kai Hong Technology Co., Ltd. and Shanghai Yuan Hao Electronic Co., Ltd.	10-K	February 29, 2008	10.53	
10.28	Wafer Purchase Agreement dated January 10, 2006, between Anachip Corporation and Lite-On Semiconductor Corporation	8-K	January 12, 2006	2.1	
10.29	Supplementary to the Lease Agreement dated September 5, 2004, between Shanghai Kaihong Electronic Co., Ltd. and Shanghai Ding Hong Electronic Co., Ltd.	10-Q	May 10, 2006	10.14	
10.30	Supplementary to the Lease Agreement dated June 28, 2004, between Diodes Shanghai Company Limited and Shanghai Yuan Hao Electronic Co., Ltd.	10-Q	May 10, 2006	10.15	
10.31	Agreement on Application, Construction and Transfer of Power Facilities dated as of March 15, 2006, between the Company and Shanghai Yahong Electronic Co., Ltd.	10-Q	May 10, 2006	10.16	
10.32	Supplement dated January 1, 2007 to the Lease Agreement on Disposal of Waste and Scraps, between Shanghai Kaihong Electronic Co., Ltd. and Shanghai Ding Hong Electronic Co., Ltd.	10-K	February 29, 2008	10.51	
10.33	Accommodation Building Fourth and Fifth Floor Lease Agreement dated December 31, 2007, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Ding Hong Electronic Co., Ltd.	10-K	February 29, 2008	10.54	
10.34	Fourth Floor of the Accommodation Building Lease Agreement dated January 1, 2008, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Ding Hong Electronic Co., Ltd.	10-Q	August 11, 2008	10.5	
10.35	Factory Building Lease Agreement dated March 1, 2008, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Hao Electronic Co. Ltd.	10-Q	August 11, 2008	10.6	
10.36	Supplemental Agreement to the Factory Building Lease Agreement dated as of August 11, 2008, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Hao Electronic Co., Ltd.	10-Q	November 7, 2008	10.2	
10.37	Distributorship Agreement dated November 1, 2008, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Keylink Logistic Co., Ltd.	10-K	February 26, 2009	10.83	

Number	Description	Form	Date of First Filing	Exhibit Number	Filed Herewith
10.38	<u>Lease Facility Safety Management Agreement dated December 31, 2008, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Howe Electronic Co., Ltd.</u>	10-K	February 26, 2009	10.84	
10.39	<u>Second Supplemental Agreement to the Factory Building Lease Agreement dated August 19, 2009, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Hao Electronic Co., Ltd.</u>	10-Q	November 6, 2009	10.1	
10.40	<u>Consulting Agreement dated January 1, 2009, between the Company and Keylink International (B.V.I.) Co., Ltd.</u>	10-Q	May 8, 2009	10.1	
10.41	<u>Power Facility Construction Agreement dated October 29, 2009, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Hao Electronic Co., Ltd.</u>	10-K	March 1, 2010	10.97	
10.42	<u>First Amendment to the DSH #2 Building Lease Agreement dated December 31, 2009, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Howe Electronics Co., Ltd.</u>	10-K	March 1, 2010	10.98	
10.43	<u>Construction Project Contract effective December 31, 2009, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Howe Electronic Co., Ltd.</u>	10-Q	May 7, 2010	10.2	
10.43.2	<u>Third Floor of the Accommodation Building Lease Agreement dated April 12, 2010, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Ding Hong Electronic Co., Ltd.</u>	10-Q	May 7, 2010	10.3	
10.44	<u>Second Floor of the Accommodation Building Lease Agreement dated September 1, 2010, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Ding Hong Electronic Company, Ltd.</u>	10-Q	November 9, 2010	10.1	
10.45	<u>Investment Cooperation Agreement effective as of September 10, 2010, between Diodes Hong Kong Holding Company Limited and the Management Committee of the Chengdu Hi-Tech Industrial Development Zone</u>	8-K	September 16, 2010	99.1	
10.46	<u>Supplementary Agreement to the Investment Cooperation Agreement effective as of September 10, 2010, between Diodes Hong Kong Holding Company Limited and the Management Committee of the Chengdu Hi-Tech Industrial Development Zone</u>	8-K	September 16, 2010	99.2	
10.47	<u>Joint Venture Agreement effective as of November 5, 2010, between Diodes Hong Kong Holding Company Limited and Chengdu Ya Guang Electronic Company Limited</u>	8-K	November 12, 2010	99.1	

Number	Description	Form	Date of First Filing	Exhibit Number	Filed Herewith
10.48	<u>Joint Venture Agreement Supplement Concerning the Establishment of Diodes Technology (Chengdu) Company Limited effective as of November 5, 2010, between Diodes Hong Kong Holding Company Limited and Chengdu Ya Guang Electronic Company Limited</u>	8-K	November 12, 2010	99.2	
10.49	<u>Second Amendment to the DSH #2 Building Lease Agreement dated November 15, 2010, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Howe Electronics Company, Ltd.</u>	10-K	February 28, 2011	10.112	
10.50	<u>Power Facility Expansion Construction Contract dated January 24, 2011, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Howe Electronics Company, Ltd.</u>	10-K	February 28, 2011	10.113	
10.51	<u>First Floor of the Accommodation Building Agreement dated June 1, 2011, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Ding Hong Electronic Company, Ltd.</u>	10-Q	November 9, 2011	10.1	
10.52	<u>Third Floor of the Dormitory Building Lease Agreement dated July 1, 2011, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Ding Hong Electronic Company, Ltd.</u>	10-Q	November 9, 2011	10.2	
10.53	<u>Third Supplemental Agreement to the Factory Building Lease Agreement dated May 16, 2011, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Hao Electronic Company, Ltd.</u>	10-Q	November 9, 2011	10.3	
10.54	<u>Supplement Agreement to the Power Facility Construction Application Agreement dated March 21, 2011, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Hao Electronic Company, Ltd.</u>	10-Q	August 9, 2011	10.1	
10.55	<u>Plating Process Agreement dated December 31, 2007, among Shanghai Kaihong Electronic Co., Ltd., Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology), Diodes Shanghai, Shanghai Ding Hong Electronic Co., Ltd. and Shanghai Micro-Surface Co., Ltd.</u>	10-K	February 29, 2008	10.52	
10.56	<u>Construction Design Consulting Agreement dated April 1, 2011, between Diodes Technology (Chengdu) Company Limited and Lite-On Technology Corporation</u>	10-Q	August 9, 2012	10.1	

Number	Description	Form	Date of First Filing	Exhibit Number	Filed Herewith
10.57	Second Supplementary Agreement dated as of January 23, 2013, to the Investment Cooperation Agreement effective as of September 10, 2010, among Diodes Hong Kong Holding Company Limited, Diodes (Shanghai) Investment Company Limited, Diodes Technology (Chengdu) Company Limited, and the Management Committee of the Chengdu Hi-Tech Industrial Development Zone	10-K	February 27, 2013	10.75	
10.58	DSH #2 Building Lease Agreement dated as of January 28, 2013, between Diodes Shanghai Co., Ltd. (a/k/a Shanghai Kaihong Technology) and Shanghai Yuan Howe Electronics Co., Ltd.	10-K	February 27, 2013	10.76	
10.59	Supplement Agreement to Lease Agreement dated September 2013, between Shanghai Kaihong Electronic Co., Ltd and Shanghai Ding Hong Electronic Co., Ltd.	10-Q	November 12, 2013	10.6	
10.60	Amendment to Dinghong Building Lease Agreements between Shanghai Kaihong Electronic Co. Ltd. and Shanghai Dinghong Electronic Co., Ltd.	10-Q	November 6, 2018	10.2	
10.61	Termination Agreement to Dinghong Male Dorm Building Lease Agreement between Shanghai Kaihong Electronic Co. Ltd. and Shanghai Dinghong Electronic Co., Ltd.	10-Q	November 6, 2018	10.4	
10.62	Termination Agreement to Dinghong Female Dorm Building Lease Agreement between Shanghai Kaihong Electronic Technology Co. Limited and Shanghai Dinghong Electronic Co. Ltd.	10-Q	November 6, 2018	10.5	
10.63	Power Account Transfer Agreement between Shanghai Kaihong Technology Company Limited and Shanghai YuanHao Co.	10-Q	November 6, 2018	10.6	
10.64	Construction Design Consulting Assignment Agreement Supplemental Agreement, between Diodes Technology (Chengdu) Company Limited and Lite-On Technology Corporation	10-Q	August 8, 2013	10.1	
10.65	Procurement Agreement dated May 3, 2013, between Diodes Taiwan Inc. and Lite-On Technology Corporation	10-Q	August 8, 2013	10.2	
10.66	Share Transfer Memorandum of Understanding dated June 18, 2013, among the Company, Chengdu Ya Guang Electronic Engineering Factory and Zetex Chengdu Electronics Limited	10-Q	August 8, 2013	10.3	
10.67	Plating Process Agreement dated February 8, 2013, between Zetex (Chengdu) Electronic Company Limited and Diodes Technology (Chengdu) Company Limited	10-Q	May 10, 2013	10.1	

Number	Description	Form	Date of First Filing	Exhibit Number	Filed Herewith
10.68	Equity Transfer Agreement dated April 2014, between Chengdu Ya Guang Electronic Engineering Factory and Diodes (Shanghai) Investment Company Limited	10-Q	May 9, 2014	10.1	
10.69	Equity Transfer Agreement Amendment dated April 2014, between Chengdu Ya Guang Electronic Engineering Factory and Diodes (Shanghai) Investment Company Limited	10-Q	May 9, 2014	10.2	
10.70	Fourth Supplemental Agreement to the Factory Building Lease Agreement dated April 23, 2014, between Shanghai Kaihong Technology Co., Ltd. and Shanghai Yuan Hao Electronic Co., Ltd.	10-Q	May 9, 2014	10.3	
10.71	Plating Processing Agreement dated February 28, 2014, between Zetex (Chengdu) Electronic Company Limited and Diodes Technology (Chengdu) Company Limited	10-Q	May 9, 2014	10.4	
10.72	Amended Consulting Agreement dated as of January 1, 2015, between Diodes Incorporated and Keylink International (B.V.) Co., Ltd.	10-K	March 2, 2015	10.78	
10.73	Chemical Warehouse Lease Agreement dated November 1, 2014, between Shanghai Kaihong Electronic Co., Ltd. and Shanghai Ding Hong Electronic Co., Ltd.	10-K	March 2, 2015	10.79	
10.74	Chemical Warehouse Lease Agreement dated September 22, 2015, between Shanghai Kaihong Technology Co., Ltd. and Shanghai Yuan Hao Electronic Co., Ltd.	10-Q	November 6, 2015	10.1	
10.75	Amendment to Yuanhao Building Lease Agreements between Shanghai Kaihong Technology Company Limited and Shanghai Yuanhao Electronic Co. Ltd	10-Q	November 6, 2018	10.3	
10.76	Fifth Supplemental Facility Lease Agreement dated February 1, 2015, between Shanghai Kaihong Technology Co., Ltd. and Shanghai Yuan Hao Electronic Co., Ltd.	10-Q	November 6, 2015	10.2	
10.77	Property Lease Safety Agreement dated July 2016, between Zetex (Chengdu) Electronics Ltd. and Chengdu Yaguang Electronic Co., Ltd.	10-Q	August 9, 2016	99.1	
10.78	Property Lease Agreement dated July 2016, between Zetex (Chengdu) Electronics Ltd. and Chengdu Yaguang Electronic Co., Ltd.	10-Q	August 9, 2016	99.2	
10.79	2016 Amendment to Joint Venture Agreement effective as of December 7, 2016, between Diodes (Shanghai) Investment Company Limited and Chengdu Ya Guang Electronic Company Limited	8-K	December 13, 2016	99.1	
10.80	Diodes Zetex Pension Scheme Recovery Plan dated February 22, 2017, between Trustees of the Diodes Zetex Pension Scheme and Diodes Zetex Limited	10-K	February 27, 2017	10.78	

Number	Description	Form	Date of First Filing	Exhibit Number	Filed Herewith
10.81	Diodes Zetex Pension Scheme Schedule of Contributions dated February 22, 2017, between Trustees of the Diodes Zetex Pension Scheme and Diodes Zetex Limited	10-K	February 27, 2017	10.79	
10.82	Framework Agreement dated January 16, 2017, among Diodes Zetex Limited, Diodes Zetex Semiconductors Limited, the Company, HR Trustees Limited and Trustees	10-K	February 27, 2017	10.80	
10.83	Guarantee dated March 26, 2012, among Diodes Zetex Semiconductors Limited, Diodes Zetex Limited, HR Trustees Limited and Trustees	10-Q	August 9, 2012	10.5	
10.84	Diodes Zetex Pension Scheme Information Protocol dated April 10, 2012, among Diodes Zetex Limited, Diodes Zetex Semiconductors Limited, the Company, HR Trustees Limited and Trustees	10-Q	August 9, 2012	10.6	
10.85	Legal Charge dated March 26, 2012, among Zetex Semiconductors Limited, HR Trustees Limited and Trustees	10-Q	August 9, 2012	10.7	
10.86	Credit Agreement dated March 21, 2011, between Mega International Commercial Bank and Diodes Taiwan Inc.	10-Q	August 9, 2011	10.2	
10.87	Amended and Restated Credit Agreement dated October 26, 2016, among the Company, Diodes International B.V., Diodes Holding B.V., Diodes Investment Company, Diodes FabTech Inc., Diodes Holdings UK Limited, Diodes Zetex Limited, Pericom Semiconductor Corporation, Bank of America, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer, and the other Lenders party thereto	8-K	November 1, 2016	10.1	
10.87.1	Amendment No. 1 and Limited Waiver dated February 13, 2017, among the parties to the Amended and Restated Credit Agreement dated October 26, 2016 (Exhibit 10.87 above)	8-K	February 14, 2017	10.1	
10.87.2	Amendment No. 2 dated August 24, 2017, among the parties to the Amended and Restated Credit Agreement dated October 26, 2016 (Exhibit 10.87 above)	10-K	February 20, 2018	10.80.2	
10.88	Consent to Credit Agreement	10-Q	November 6, 2018	10.1	
10.89	Consent and Amendment No. 3 to Amended and Restated Credit Agreement dated December 27, 2018, among the parties to the Amended and Restated Credit Agreement dated October 26, 2016 (Exhibit 87 above)	10-K	February 21, 2019	10.89	
10.90*	Transition agreement between Diodes Incorporated and Richard White	8-K	March 6, 2019	10.1	
10.91*	Amended Transition Agreement between Diodes Incorporated and Richard White	8-K/A	April 1, 2019	10.1	
10.92	Consent to Credit Agreement	10-Q	May 7, 2019	10.1	

Number	Description	Form	Date of First Filing	Exhibit Number	Filed Herewith
10.93	Consent to Credit Agreement	10-Q	August 5, 2019	10.1	
10.94	Share Swap Agreement between Diodes Incorporated and Lite-On Semiconductor Corp. dated as of August 8, 2019	8-K	August 9, 2019	2.1	
10.95	First Amendment to Second Amended and Restated Credit Agreement dated as of September 21, 2020				X
10.96	Consent Agreement with Respect to Second Amended and Restated Credit Agreement and Foreign Security Agreements dated as of November 2, 2020				X
10.97	Consent and Amendment No. 2 to Second Amended and Restated Credit Agreement dated as of November 17, 2020. Portions of this Exhibit have been omitted				X
14**	Code of Ethics for Chief Executive Officer and Senior Financial Officers				
21	Subsidiaries of the Registrant				X
23.1	Consent of Independent Registered Public Accounting Firm				X
31.1	Certification Pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				X
31.2	Certification Pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				X
32.1***	Certification Pursuant to 18 U.S.C. adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002				X
32.2***	Certification Pursuant to 18 U.S.C. adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002				X
101.INS	Inline XBRL Instance Document- the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.				X
101.SCH	Inline XBRL Taxonomy Extension Schema				X
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase				X
101.LAB	Inline XBRL Taxonomy Extension Labels Linkbase				X
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase				X
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase				X

Number	Description	Form	Date of First Filing	Exhibit Number	Filed Herewith
104	Cover Page Interactive Data File, formatted in Inline XBRL				X
*	Constitute management contracts, or compensatory plans or arrangements, which are required to be filed pursuant to Item 601 of Regulation S-K.				
**	Provided in the Corporate Governance portion of the Investor Relations section of the Company’s website at http://www.diodes.com				
***	A certification furnished pursuant to Item 601 of the Regulation S-K will not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liability of that section. Such certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except to the extent that the registrant specifically incorporates it by reference.				

PLEASE NOTE: It is inappropriate for investors to assume the accuracy of any covenants, representations or warranties that may be contained in agreements or other documents filed as exhibits to this Annual Report on Form 10-K. In certain instances the disclosure schedules to such agreements or documents contain information that modifies, qualifies and creates exceptions to the representations, warranties and covenants. Moreover, some of the representations and warranties may not be complete or accurate as of a particular date because they are subject to a contractual standard of materiality that is different from those generally applicable to stockholders or were used for the purpose of allocating risk among the parties rather than establishing certain matters as facts. Accordingly, you should not rely on the representations and warranties as characterizations of the actual state of facts at the time they were made or otherwise.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

DIODES INCORPORATED (Registrant)

By: /s/ Keh-Shew Lu
KEH-SHEW LU
President and Chief Executive Officer
(Principal Executive Officer)

February 19, 2021

By: /s/ Brett R. Whitmire
Brett R. Whitmire
Chief Financial Officer
(Principal Financial and Accounting Officer)

February 19, 2021

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Dr. Keh-Shew Lu, President and Chief Executive Officer, and Brett R. Whitmire, Chief Financial Officer, his true and lawful attorneys-in-fact and agents, with full power of substitution, to sign and execute on behalf of the undersigned any and all amendments to this report, and to perform any acts necessary in order to file the same, with all exhibits thereto and other documents in connection therewith with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requested and necessary to be done in connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agents, or their or his or her substitutes, shall do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities indicated on February 19, 2021.

/s/ Keh-Shew Lu
KEH-SHEW LU
Chairman, President and Chief Executive Officer
(Principal Executive Officer)

/s/ Brett R. Whitmire
Brett R. Whitmire
Chief Financial Officer
(Principal Financial Officer)

/s/ Keh-Shew Lu
KEH-SHEW LU
Chairman of the Board of Directors

/s/ Peter M. Menard
PETER M. MENARD
Director

/s/ C.H. Chen
C.H. CHEN
Director and Vice Chairman

/s/ Michael K. C. Tsai
MICHAEL K.C. TSAI
Lead Director

/s/ Warren Chen
WARREN CHEN
Director

/s/ Christina Wen-Chi Sung
CHRISTINA WEN-CHI SUNG
Director

/s/ Michael R. Giordano
MICHAEL R. GIORDANO
Director

FIRST AMENDMENT TO SECOND AMENDED AND RESTATED
CREDIT AGREEMENT

THIS FIRST AMENDMENT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT dated as of September 21, 2020 (this "Agreement") is entered into among DIODES INCORPORATED, a Delaware corporation (the "Domestic Borrower"), DIODES HOLDING B.V., a *besloten vennootschap met beperkte aansprakelijkheid*, organized under the laws of the Netherlands, having its statutory seat in Amsterdam, the Netherlands, and registered with the trade register of the Chamber of Commerce in the Netherlands under number 65823060 (the "Foreign Borrower") and together with the Domestic Borrower, the "Borrowers" and each, individually, a "Borrower"), certain Subsidiaries of the Domestic Borrower identified on the signature pages hereto as subsidiary guarantors (the "Subsidiary Guarantors"), the Lenders identified on the signature pages hereto and BANK OF AMERICA, N.A., as Administrative Agent (in such capacity, the "Administrative Agent").

PRELIMINARY STATEMENTS

The Borrowers, Subsidiary Guarantors, the Lenders and the Administrative Agent are parties to that certain Second Amended and Restated Credit Agreement dated as of May 29, 2020 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time prior to the date hereof, the "Credit Agreement").

The Domestic Borrower and other Loan Parties have requested that the baskets set forth in Section 7.02(p), allowing for borrowings by the Domestic Borrower from non-Loan Party Subsidiaries, and Section 7.03(c)(vi), allowing for investments in non-Loan Party Subsidiaries, each be increased from \$150 million to \$300 million.

Subject to the terms and conditions set forth herein, the Administrative Agent and each of the Lenders party hereto have agreed to grant the foregoing requests of the Domestic Borrower and other Loan Parties.

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

1. Defined Terms. Except as otherwise provided herein, all capitalized undefined terms used in this Agreement (including, without limitation, in the introductory paragraph and the preliminary statements hereto) shall have the meanings assigned thereto in the Credit Agreement.

2. Credit Agreement Amendments.

(a) Section 7.02(p) of the Credit Agreement is hereby amended by deleting the reference to "\$150,000,000" therein and replacing same with the amount of "\$300,000,000".

(b) Section 7.03(c)(vi) of the Credit Agreement is hereby amended by deleting the reference to "\$150,000,000" therein and replacing same with the amount of "\$300,000,000".

3. Conditions to Effectiveness. This Agreement shall be effective upon the Administrative Agent's receipt of the following, each of which shall be originals or electronic images in a portable

document format (e.g. “.pdf” or “.tif”) (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Effective Date and each in form and substance reasonably satisfactory to the Administrative Agent and each of the Required Lenders (such date, the “Effective Date”):

(a) executed counterparts of this Agreement signed by the Borrowers, the Guarantors, the Administrative Agent and the Required Lenders; and

(b) such other assurances, certificates, documents, information, consents or opinions as the Administrative Agent, the L/C Issuer, the Swing Line Lender or the Required Lenders reasonably may require.

4. Effect of this Agreement. Except as expressly provided herein, the Credit Agreement, the Collateral Agreement and the other Loan Documents shall remain unmodified and in full force and effect. Except as expressly set forth herein, this Agreement shall not be deemed (a) to be a waiver of, or consent to a modification of or amendment of, any other term or condition of the Credit Agreement, the Collateral Agreement or any other Loan Document, (b) to prejudice any other right or rights which the Administrative Agent or the Lenders may now have or may have in the future under or in connection with the Credit Agreement, the Collateral Agreement or the other Loan Documents or any of the instruments or agreements referred to therein, as the same may be amended, restated, supplemented or otherwise modified from time to time, (c) to be a commitment or any other undertaking or expression of any willingness to engage in any further discussion with the Loan Parties or any other Person with respect to any waiver, amendment, modification or any other change to the Credit Agreement, the Collateral Agreement or the other Loan Documents or any rights or remedies arising in favor of the Lenders or the Administrative Agent, or any of them, under or with respect to any such documents, (d) to be a waiver of, or consent to a modification or amendment of, any other term or condition of any other agreement by and among any Loan Party, on the one hand, and the Administrative Agent or any other Lender, on the other hand or (e) to be a course of dealing or a consent to any departure by the Loan Parties from any other term or requirement of the Credit Agreement. References in this Agreement to the Credit Agreement (and indirect references such as “hereunder”, “hereby”, “herein”, and “hereof”) and in any Loan Document to the Credit Agreement shall be deemed to be references to the Credit Agreement as modified hereby.

5. Representations and Warranties/No Default. By their execution hereof, each Loan Party hereby represents and warrants as follows:

(a) Such Loan Party has the right, power and authority and has taken all necessary corporate and other action to authorize the execution and delivery of, and the performance in accordance with their respective terms of the transactions consented to in, this Agreement and each other document executed in connection herewith to which it is a party.

(b) This Agreement and each other document executed in connection herewith has been duly executed and delivered by its duly authorized officers, and each such document constitutes the legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar state or federal debtor relief laws from time to time in effect which affect the enforcement of creditors’ rights in general and the availability of equitable remedies.

(c) Each of the representations and warranties set forth in the Credit Agreement and the other Loan Documents is true and correct as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that the representations and warranties contained in subsections

(a) and (b) of Section 5.05 of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01 of the Credit Agreement.

(d) No Default or Event of Default has occurred or is continuing nor would any Default or Event of Default result after giving effect to this Agreement and the transactions contemplated hereby.

(e) No Loan Party is an EEA Financial Institution.

6. Reaffirmations. (a) Each Loan Party agrees that the transactions contemplated by this Agreement shall not limit or diminish the obligations of such Person under, or release such Person from any obligations under, the Credit Agreement (including the Guaranty), the Collateral Agreement and each other Loan Document to which it is a party, (b) each Loan Party confirms, ratifies and reaffirms its obligations under the Credit Agreement (including the Guaranty), the Collateral Agreement and each other Loan Document to which it is a party, and (c) each Loan Party agrees that, except as otherwise expressly agreed in this Agreement, the Credit Agreement (including the Guaranty), the Collateral Agreement and each other Loan Document to which it is a party remain in full force and effect and are hereby ratified and confirmed.

7. Confirmation as to Dutch Collateral Documents. Reference is made to (i) that certain Deed of Pledge of Shares dated May 29, 2020, among the Domestic Borrower, as pledgor, Administrative Agent, as pledgee and the Foreign Borrower, as company (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "DHBV Dutch Share Pledge"), (ii) that certain omnibus pledge agreement dated 8 January 2013, between Diodes International B.V., as pledgor and Administrative Agent, as pledgee (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "DIBV Omnibus Pledge Agreement"), (iii) that certain omnibus pledge agreement dated July 18, 2016, between the Foreign Borrower, as pledgor and Administrative Agent, as pledgee (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "DHBV Omnibus Pledge Agreement") and (iv) that certain omnibus pledge agreement dated May 29, 2020, between the Foreign Borrower, as pledgor and Administrative Agent, as pledgee (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Additional DHBV Omnibus Pledge Agreement"), together with the DHBV Omnibus Pledge Agreement, the DIBV Omnibus Pledge Agreement and the DHBV Dutch Share Pledge, the "Dutch Collateral Documents"). Each party to the Dutch Collateral Documents hereby confirms that:

(a) the Credit Agreement (after giving effect to this Agreement), and the other Loan Documents will remain in full force and effect and any reference in the Loan Documents to the Credit Agreement or to any provision of the Credit Agreement will be construed as a reference to the Credit Agreement, or that provision, after giving effect to this Agreement;

(b) notwithstanding the amendments, consents and waivers to the Credit Agreement pursuant to this Agreement, the Dutch Collateral Documents and the security interests created thereunder will remain in full force and effect and will continue to secure all liabilities which are expressed to be secured by them and the rights of the Loan Parties under such security interest will not be affected by this Agreement;

(c) (i) any amount owed by any Borrower under this Agreement and the Credit Agreement (after giving effect to this Agreement) continues to be or has become part of each Loan Party's Parallel Debts (as included/defined in the Credit Agreement) and (ii) each Loan Party's Parallel

Debts continue to be part of the Secured Obligations (as included and defined in the Dutch Collateral Documents); and

(d) at the time of the entering into the Dutch Collateral Documents, it was their intention that the security rights created pursuant to the Dutch Collateral Documents would provide security for the Secured Obligations (as defined in the Dutch Collateral Documents) as they may be amended, restated, supplemented or otherwise modified from time to time, including amendments to the Credit Agreement and the Loan Documents, including, for the avoidance of doubt, the matters of the type addressed by this Agreement.

8. Payment of Fees. The Borrowers shall pay all reasonable fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) promptly upon request by the Administrative Agent.

9. Miscellaneous

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. Without limiting the general applicability of the foregoing and the terms of the other Loan Documents to this Agreement and the parties hereto, the terms of Section 11.14 and Section 11.15 of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

(b) Loan Document. This Agreement shall constitute a “Loan Document” under and as defined in the Credit Agreement.

(c) Counterparts; Electronic Execution. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

(d) Severability. If any provision of this Agreement is determined to be illegal, invalid or unenforceable, such provision shall be fully severable and the remaining provisions shall remain in full force and effect and shall be construed without giving effect to the illegal, invalid or unenforceable provisions.

(e) Entirety. This Agreement, the other Loan Documents and the other documents relating to the Obligations represent the entire agreement of the parties hereto and thereto, and supersede all prior agreements and understandings, oral or written, if any, including any commitment letters or correspondence relating to the Loan Documents, any other documents relating to the Obligations, or the transactions contemplated herein and therein.

(f) Dutch Law. If the Foreign Borrower is represented by an attorney in connection with the signing and/or execution of this Agreement or any other agreement, deed or document referred to in or made pursuant to this Agreement, it is hereby expressly acknowledged and accepted by the other parties to this Agreement that the existence or extent of the attorney’s authority and the effects of the attorney’s exercise or purported exercise of his or her authority shall be governed by the laws of the Netherlands.

[Remainder of page intentionally blank.]

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

DOMESTIC BORROWER:

DIODES INCORPORATED

By: /s/ Brett Whitmire

Name: Brett Whitmire

Title: CFO

FOREIGN BORROWER:

DIODES HOLDING B.V.

By: /s/ Brett Whitmire

Name: Brett Whitmire

Title: Managing Director A

By: /s/ Edwin Denekamp

Name: Edwin Denekamp

Title: Managing Director B

SUBSIDIARY GUARANTORS:

DIODES HOLDINGS UK LIMITED

By: /s/ Brett Whitmire

Name: Brett Whitmire

Title: Director

DIODES ZETEX LIMITED

By: /s/ Brett Whitmire

Name: Brett Whitmire

Title: Director

Signature Page to First Amendment to Second Amended and Restated Credit Agreement
Diodes Incorporated

BANK OF AMERICA, N.A.,
as Administrative Agent

By: /s/ Anthony W. Kell

Name: Anthony W. Kell

Title: Vice President

Signature Page to First Amendment to Second Amended and Restated Credit Agreement
Diodes Incorporated

BANK OF AMERICA, N.A.,
as a Lender, L/C Issuer and Swing Line Lender

By: /s/ Jennifer Yan

Name: Jennifer Yan

Title: Senior Vice President

Signature Page to First Amendment to Second Amended and Restated Credit Agreement
Diodes Incorporated

BBVA USA, as a Lender

By: /s/ Jay S. Tweed

Name: Jay S. Tweed

Title: SVP

Signature Page to First Amendment to Second Amended and Restated Credit Agreement
Diodes Incorporated

PNC BANK, NATIONAL ASSOCIATION,
as a Lender

By: /s/ R. Ruining Nguyen

Name: R. Ruining Nguyen

Title: SVP

Signature Page to First Amendment to Second Amended and Restated Credit Agreement
Diodes Incorporated

CITIBANK, N.A.,
as a Lender

By: /s/ Stuart Darby

Name: Stuart Darby

Title: Senior Vice President

Signature Page to First Amendment to Second Amended and Restated Credit Agreement
Diodes Incorporated

REGIONS BANK,
as a Lender

By: /s/ Derek Miller

Name: Derek Miller

Title: Director

Signature Page to First Amendment to Second Amended and Restated Credit Agreement
Diodes Incorporated

COMERICA BANK,
as a Lender

By: /s/ John Smithson

Name: John Smithson

Title: Vice President

Signature Page to First Amendment to Second Amended and Restated Credit Agreement
Diodes Incorporated

SILICON VALLEY BANK,
as a Lender

By: /s/ Will Deevy

Name: Will Deevy

Title: Director

Signature Page to First Amendment to Second Amended and Restated Credit Agreement
Diodes Incorporated

CADENCE BANK, N.A.,
as a Lender

By: /s/ David Hauglid

Name: David Hauglid

Title: Senior Vice President

Signature Page to First Amendment to Second Amended and Restated Credit Agreement
Diodes Incorporated

HSBC BANK USA, N.A.,
as a Lender

By: /s/ Shaun R. Kleinman

Name: Shaun R. Kleinman

Title: Senior Vice President

Signature Page to First Amendment to Second Amended and Restated Credit Agreement
Diodes Incorporated

**CONSENT AGREEMENT WITH RESPECT TO SECOND AMENDED AND RESTATED
CREDIT AGREEMENT AND FOREIGN SECURITY AGREEMENTS**

THIS CONSENT AGREEMENT WITH RESPECT TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT AND FOREIGN SECURITY AGREEMENTS dated as of November 2, 2020 (this "Agreement") is entered into among DIODES INCORPORATED, a Delaware corporation (the "Domestic Borrower"), DIODES HOLDING B.V., a private limited liability company (in Dutch: besloten vennootschap met beperkte aansprakelijkheid), organized under the laws of the Netherlands, having its statutory seat in Amsterdam, the Netherlands, and registered with the trade register of the Chamber of Commerce in the Netherlands under the number 65823060 ("DHBV" or the "Foreign Borrower"), certain Subsidiaries of the Domestic Borrower identified on the signature pages hereto as subsidiary guarantors (the "Subsidiary Guarantors"), the Lenders identified on the signature pages hereto and BANK OF AMERICA, N.A., as Administrative Agent (in such capacity, the "Administrative Agent").

PRELIMINARY STATEMENTS

The Domestic Borrower, the Foreign Borrower, Diodes Holdings UK Limited, a company incorporated and registered under the laws of England and Wales with registration number 06475363 ("DHUK") and the other Subsidiary Guarantors, the Lenders and the Administrative Agent are parties to that certain Second Amended and Restated Credit Agreement dated as of May 29, 2020 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time prior to the date hereof, the "Credit Agreement").

The Domestic Borrower is the direct owner of all of the outstanding Equity Interests in DHBV, and DHBV is the direct owner of all of the outstanding Equity Interests in DHUK.

The Domestic Borrower has informed the Administrative Agent and the Lenders that DHBV wishes to merge with and into DHUK effective as of December 31, 2020 (the "UK Merger") in accordance with the joint terms of merger of the DHBV and DHUK, signed by the parties thereto on September 22, 2020, and Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 (the "Directive"), implemented in the United Kingdom by The Companies (Cross-Border Mergers) Regulations 2007 (the "UK Regulations") and in the Netherlands by the provisions of Book 2, Title 7, Parts 1 through 3A of the Dutch Civil Code (the "Dutch Civil Code"). The UK Merger will be a "merger by absorption" as provided for by Article 119(2)(a) of the Directive (and Regulation 2(2) of the UK Regulations, and Article 2:309 of the Dutch Civil Code), and as a result of the merger DHUK will acquire all rights and assets and assume all liabilities and obligations of DHBV.

As a result of the UK Merger, all of DHBV's obligations under the Loan Documents as the "Foreign Borrower" will be acquired by operation of law by DHUK, DHBV will cease to exist and shall be dissolved without going into liquidation, the shares in DHBV will be cancelled and DHUK will allot shares to the sole shareholder of DHBV, being the Domestic Borrower. The current Collateral Documents with respect to the Equity Interests in DHBV will terminate by operation of law as a consequence of the UK Merger. Following the UK Merger, DHUK will maintain its current corporate structure and corporate name and registration number and will continue to be governed by the laws of England.

The Domestic Borrower has further informed the Administrative Agent and the Lenders that on or around November 10, 2020, the Domestic Borrower intends to vote in favor of the UK Merger at a general meeting of DHBV to be held in front of a Dutch civil law notary.

The Loan Parties have requested that the Administrative Agent and the Lenders consent to the Domestic Borrower exercising its Voting Rights (as defined in each Deed of Pledge described below) in the capital of DHBV in order to decide upon the UK Merger and the related terms thereof notwithstanding any voting restriction pursuant to the pledge over such shares set forth in the deed of pledge of shares entered into by and between the Domestic Borrower, the Administrative Agent and DHBV on October 20, 2016 (the “Deed of Pledge 1”) and (ii) the deed of pledge of shares entered into by and between the Domestic Borrower, the Administrative Agent and DHBV on May 29, 2020 (the “Deed of Pledge 2,” and together with the Deed of Pledge 1, the “Deeds of Pledge”).

The Loan Parties have requested that the Administrative Agent and the Lenders consent to DHBV exercising its voting rights in relation to the Charged Shares (as defined in the Share Charge described below) to decide upon the UK Merger and the related terms thereof notwithstanding any voting restriction pursuant to the pledge over such shares set forth in the Charge Over Shares entered into by DHBV and the Administrative Agent on May 29, 2020 (the “Share Charge,” and with the Deeds of Pledge, the “Pledges”).

Section 7.02(t) of the Credit Agreement permits Diodes Hong Kong to incur the Diodes Hong Kong HSBC Indebtedness. The Loan Parties have requested that the Administrative Agent and the Lenders consent to the renewal and extension of the Diodes Hong Kong HSBC Indebtedness with the understanding that the Diodes Hong Kong HSBC Indebtedness shall continue to be secured solely by the Chengdu Letter of Credit and in no event shall the aggregate principal amount of the Diodes Hong Kong HSBC Indebtedness exceed \$70,000,000.

Section 7.02(s) of the Credit Agreement permits Diodes Chengdu to enter into the Chengdu Letter of Credit Facility and the issuance of the Chengdu Letter of Credit thereunder. The Loan Parties have requested that the Administrative Agent and the Lenders consent to the amendment of the Chengdu Letter of Credit Facility to provide either a committed facility or an uncommitted facility and to allow the Chengdu Letter of Credit to have a further term of two years, and the corresponding issuance of an amended or replaced Chengdu Letter of Credit, with the understanding that in no event shall the face amount of the Chengdu Letter of Credit exceed \$70,000,000.

Subject to the terms and conditions set forth herein, the Administrative Agent and each of the Lenders party hereto have agreed to grant such request of the Loan Parties.

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

1. Defined Terms. Except as otherwise provided herein, all capitalized undefined terms used in this Agreement (including, without limitation, in the introductory paragraph and the preliminary statements hereto) shall have the meanings assigned thereto in the Credit Agreement.

2. Consent – Foreign Security Agreements. Subject to the terms and conditions hereof, and notwithstanding anything to the contrary in the Deeds of Pledge (including, without limitation, Section 4.4 of each Deed of Pledge) or the Share Charge (including, without limitation, Section 4.1 of the Share Charge), the Administrative Agent and the Lenders hereby consent to (A) the Domestic Borrower exercising its Voting Rights (as defined in each Deed of Pledge) in the capital of DHBV and (B) DHBV exercising its voting rights in relation to the Charged Shares (as defined in the Share Charge described below), in each case, in order to decide upon the UK Merger and the related terms thereof notwithstanding any voting restriction pursuant to the pledge over such shares (the “Consent”). For the avoidance of doubt, in no event shall this Consent serve as consent to the consummation of the UK Merger or as a waiver of Sections 7.04(a)(ii) and 11.01(j) of the Credit Agreement or of any other provision of the Credit Agreement, or as a consent for the release of any Borrower or the assignment or transfer by any Borrower of any of its

rights or obligations under the Credit Agreement or the other Loan Documents. All parties hereto agree and acknowledge that the consummation of the UK Merger, and the acquisition by DHUK of all rights and assets and assume all liabilities and obligations of DHBV, shall only be permitted with the express written consent of each Lender under the Credit Agreement pursuant to a separate written agreement (consent to which each Lender may elect to provide in its sole discretion).

3. Consent – Credit Agreement. Subject to the terms and conditions hereof, and notwithstanding anything to the contrary in Section 7.02(s) or the definitions of Chengdu Letter of Credit Facility and Chengdu Letter of Credit set forth in Section 1.01 of the Credit Agreement, the Administrative Agent and the Lenders hereby consent to the amendment of the Chengdu Letter of Credit Facility to provide either a committed facility or an uncommitted facility and to allow the Chengdu Letter of Credit to have a further term of two years, and the corresponding issuance of an amended or replaced Chengdu Letter of Credit; *provided* that, in no event shall the face amount of the Chengdu Letter of Credit exceed \$70,000,000. Subject to the terms and conditions hereof, and notwithstanding anything to the contrary in Section 7.02(t) or the definition of Diodes Hong Kong HSBC Indebtedness set forth in Section 1.01 of the Credit Agreement, the Administrative Agent and the Lenders hereby consent to the renewal and extension of the Diodes Hong Kong HSBC Indebtedness (without any change in the collateral provided therefor); *provided* that, (A) the Diodes Hong Kong HSBC Indebtedness shall continue to be secured solely by the Chengdu Letter of Credit and (B) in no event shall the aggregate principal amount of the Diodes Hong Kong HSBC Indebtedness exceed \$70,000,000.

4. Conditions to Effectiveness of Consent. The Consent shall be effective upon the Administrative Agent's receipt of executed counterparts of this Agreement signed by the Loan Parties, the Administrative Agent and the Lenders, which shall be originals or electronic images in a portable document format (e.g. ".pdf" or ".tif") (followed promptly by originals), properly executed by a Responsible Officer of the signing Loan Party (such date, the "Consent Effective Date").

5. Effect of this Agreement. Except as expressly provided herein, the Credit Agreement, the Collateral Agreement and the other Loan Documents shall remain unmodified and in full force and effect. Except as expressly set forth herein, this Agreement shall not be deemed (a) to be a waiver of, or consent to a modification of or amendment of, any other term or condition of the Credit Agreement, the Collateral Agreement or any other Loan Document, (b) to prejudice any other right or rights which the Administrative Agent or the Lenders may now have or may have in the future under or in connection with the Credit Agreement, the Collateral Agreement or the other Loan Documents or any of the instruments or agreements referred to therein, as the same may be amended, restated, supplemented or otherwise modified from time to time, (c) to be a commitment or any other undertaking or expression of any willingness to engage in any further discussion with the Loan Parties or any other Person with respect to any waiver, amendment, modification or any other change to the Credit Agreement, the Collateral Agreement or the other Loan Documents or any rights or remedies arising in favor of the Lenders or the Administrative Agent, or any of them, under or with respect to any such documents, (d) to be a waiver of, or consent to a modification or amendment of, any other term or condition of any other agreement by and among any Loan Party, on the one hand, and the Administrative Agent or any other Lender, on the other hand or (e) to be a course of dealing or a consent to any departure by the Loan Parties from any other term or requirement of the Credit Agreement. References in this Agreement to the Credit Agreement (and indirect references such as "hereunder", "hereby", "herein", and "hereof") and in any Loan Document to the Credit Agreement shall be deemed to be references to the Credit Agreement as modified hereby.

6. Representations and Warranties/No Default. By their execution hereof, each Loan Party hereby represents and warrants as follows:

(a) Such Loan Party has the right, power and authority and has taken all necessary corporate and other action to authorize the execution and delivery of, and the performance in accordance with their respective terms of the transactions consented to in, this Agreement and each other document executed in connection herewith to which it is a party.

(b) This Agreement and each other document executed in connection herewith has been duly executed and delivered by its duly authorized officers, and each such document constitutes the legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar state or federal debtor relief laws from time to time in effect which affect the enforcement of creditors' rights in general and the availability of equitable remedies.

(c) Each of the representations and warranties set forth in the Credit Agreement and the other Loan Documents is true and correct as of the date hereof and on the Consent Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that the representations and warranties contained in subsections (a) and (b) of Section 5.05 of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01 of the Credit Agreement.

(d) No Default or Event of Default (as defined in the Credit Agreement) and no Voting Transfer Event (as defined in the Deeds of Pledge) has occurred or is continuing nor would any Default or Event of Default result after giving effect to this Agreement and the transactions contemplated hereby.

(e) No Loan Party is an Affected Financial Institution.

7. Assumption and Reaffirmations.

(a) Each Loan Party agrees that the transactions contemplated by this Agreement shall not limit or diminish the obligations of such Person under, or release such Person from any obligations under, the Credit Agreement (including the Guaranty), the Collateral Agreement and each other Loan Document to which it is a party.

(b) Each Loan Party confirms, ratifies and reaffirms its obligations under the Credit Agreement (including the Guaranty), the Collateral Agreement and each other Loan Document to which it is a party and acknowledges and agrees that its Guaranty of, and pledge of Collateral pursuant to the Collateral Documents to which it is a party to secure, the Foreign Obligations and the other Obligations, as applicable, shall remain in full force and effect upon the Consent Effective Date.

(c) Each Loan Party agrees that, except as otherwise expressly agreed in this Agreement, the Credit Agreement (including the Guaranty), the Collateral Agreement and each other Loan Document to which it is a party remain in full force and effect and are hereby ratified and confirmed.

8. Miscellaneous

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. Without limiting the general applicability of the foregoing and the terms of the other Loan Documents to this Agreement and the parties hereto, the terms of Section 11.14 and Section 11.15 of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

(b) Loan Document. This Agreement shall constitute a “Loan Document” under and as defined in the Credit Agreement.

(c) Counterparts; Electronic Execution. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

(d) Severability. If any provision of this Agreement is determined to be illegal, invalid or unenforceable, such provision shall be fully severable and the remaining provisions shall remain in full force and effect and shall be construed without giving effect to the illegal, invalid or unenforceable provisions.

(e) Entirety. This Agreement, the other Loan Documents and the other documents relating to the Obligations represent the entire agreement of the parties hereto and thereto, and supersede all prior agreements and understandings, oral or written, if any, including any commitment letters or correspondence relating to the Loan Documents, any other documents relating to the Obligations, or the transactions contemplated herein and therein.

[Remainder of page intentionally blank.]

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

DOMESTIC BORROWER:

DIODES INCORPORATED

By: /s/ Brett Whitmire

Name: Whitmire Brett

Title: Financial Officer Chief

FOREIGN BORROWER:

DIODES HOLDING B.V.

By: /s/ Brett Whitmire

Name: Brett Whitmire

Title: Managing Director Director

By: /s/ M.F.A. van Schijndel

Name: M.F.A. van Schijndel

Title: Managing Director B

SUBSIDIARY GUARANTORS:

DIODES ZETEX LIMITED

By: /s/ Brett Whitmire

Name: Brett Whitmire

Title: Director

DIODES HOLDINGS UK LIMITED

By: /s/ Brett Whitmire

Name: Brett Whitmire

Title: Director

Signature Page to Consent Agreement With Respect to Second Amended and Restated
Credit Agreement and Foreign Security Agreements
Diodes Incorporated

BANK OF AMERICA, N.A.,
as Administrative Agent

By: /s/ Anthony W. Kell

Name: Anthony W. Kell

Title: Vice President

Signature Page to Consent Agreement With Respect to Second Amended and Restated
Credit Agreement and Foreign Security Agreements
Diodes Incorporated

BANK OF AMERICA, N.A.,
as a Lender, L/C Issuer and Swing Line Lender

By: /s/ Jennifer Yan

Name: Jennifer Yan

Title: Senior Vice President

Signature Page to Consent Agreement With Respect to Second Amended and Restated
Credit Agreement and Foreign Security Agreements
Diodes Incorporated

BBVA USA,
as a Lender

By: /s/ Jay S. Tweed

Name: Jay S. Tweed

Title: SVP

Signature Page to Consent Agreement With Respect to Second Amended and Restated
Credit Agreement and Foreign Security Agreements
Diodes Incorporated

PNC BANK, NATIONAL ASSOCIATION,
as a Lender

By: /s/ R. Ruining Nguyen

Name: R. Ruining Nguyen

Title: SVP

Signature Page to Consent Agreement With Respect to Second Amended and Restated
Credit Agreement and Foreign Security Agreements
Diodes Incorporated

CITIBANK, N.A.,
as a Lender

By: /s/ Stuart Darby

Name: Stuart Darby

Title: Senior Vice President

Signature Page to Consent Agreement With Respect to Second Amended and Restated
Credit Agreement and Foreign Security Agreements
Diodes Incorporated

REGIONS BANK,
as a Lender

By: /s/ Derek Miller

Name: Derek Miller

Title: Director

Signature Page to Consent Agreement With Respect to Second Amended and Restated
Credit Agreement and Foreign Security Agreements
Diodes Incorporated

COMERICA BANK,
as a Lender

By: /s/ John Smithson

Name: John Smithson

Title: Vice President

Signature Page to Consent Agreement With Respect to Second Amended and Restated
Credit Agreement and Foreign Security Agreements
Diodes Incorporated

SILICON VALLEY BANK,
as a Lender

By: /s/ Will Deevy

Name: Will Deevy

Title: Director

Signature Page to Consent Agreement With Respect to Second Amended and Restated
Credit Agreement and Foreign Security Agreements
Diodes Incorporated

CADENCE BANK, N.A.,
as a Lender

By: /s/ David Hauglid

Name: David Hauglid

Title: Senior Vice President

Signature Page to Consent Agreement With Respect to Second Amended and Restated
Credit Agreement and Foreign Security Agreements
Diodes Incorporated

HSBC BANK USA, N.A.,
as a Lender

By: /s/ Shaun R. Kleinman

Name: Shaun R. Kleinman

Title: Senior Vice President

Signature Page to Consent Agreement With Respect to Second Amended and Restated
Credit Agreement and Foreign Security Agreements
Diodes Incorporated

PORTIONS OF THIS EXHIBIT HAVE OMITTED BECAUSE THE INFORMATION CONTAINED IN SUCH PORTIONS IS BOTH NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED. SUCH PORTIONS ARE INDICATED IN THE EXHIBIT BY [].

**CONSENT AND AMENDMENT NO. 2 TO SECOND
AMENDED AND RESTATED CREDIT AGREEMENT**

THIS CONSENT AND AMENDMENT NO. 2 TO SECOND AMENDED AND RESTATED CREDIT AGREEMENT dated as of November 17, 2020 (this “Agreement”) is entered into among DIODES INCORPORATED, a Delaware corporation (the “Domestic Borrower”), DIODES HOLDING B.V., a private limited liability company (in Dutch: besloten vennootschap met beperkte aansprakelijkheid), organized under the laws of the Netherlands, having its statutory seat in Amsterdam, the Netherlands, and registered with the trade register of the Chamber of Commerce in the Netherlands under the number 65823060 (“DHBV” or the “Foreign Borrower”), certain Subsidiaries of the Domestic Borrower identified on the signature pages hereto as subsidiary guarantors (the “Subsidiary Guarantors”), the Lenders identified on the signature pages hereto and BANK OF AMERICA, N.A., as Administrative Agent (in such capacity, the “Administrative Agent”).

PRELIMINARY STATEMENTS

The Domestic Borrower, the Foreign Borrower, Diodes Holdings UK Limited, a company incorporated and registered under the laws of England and Wales with registration number 06475363 (“DHUK”) and the other Subsidiary Guarantors, the Lenders and the Administrative Agent are parties to that certain Second Amended and Restated Credit Agreement dated as of May 29, 2020 (as amended by the Amendment No. 1 to Second Amended and Restated Credit Agreement dated as of September 21, 2020 and as modified by that certain Consent Agreement with Respect to Second Amended and Restated Credit Agreement and Foreign Security Agreements dated as of November 2, 2020, and as further amended, restated, amended and restated, supplemented or otherwise modified from time to time prior to the date hereof, the “Credit Agreement”).

The Domestic Borrower is the direct owner of all of the outstanding Equity Interests in DHBV, and DHBV is the direct owner of all of the outstanding Equity Interests in DHUK.

The Domestic Borrower has informed the Administrative Agent and the Lenders that DHBV wishes to merge with and into DHUK effective as of December 31, 2020 in accordance with the joint terms of merger of DHBV and DHUK (inclusive of all related acts set forth therein), signed by the parties thereto on September 22, 2020 (the “UK Merger”), and Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 (the “Directive”), implemented in the United Kingdom by The Companies (Cross-Border Mergers) Regulations 2007 (the “UK Regulations”) and in the Netherlands by the provisions of Book 2, Title 7, Parts 1 through 3A of the Dutch Civil Code (the “Dutch Civil Code”). The UK Merger will be a “merger by absorption” as provided for by Article 119(2)(a) of the Directive (and Regulation 2(2) of the UK Regulations, and Article 2:309 of the Dutch Civil Code), and as a result of the merger DHUK will acquire all rights and assets and assume all liabilities and obligations of DHBV.

As a result of the UK Merger, all of DHBV’s obligations under the Loan Documents as the “Foreign Borrower” will be acquired by operation of law by DHUK, DHBV will cease to exist and shall be dissolved without going into liquidation, the shares in DHBV will be cancelled and DHUK will allot

shares to the sole shareholder of DHBV, being the Domestic Borrower. The current Collateral Documents with respect to the Equity Interests in DHBV will terminate by operation of law as a consequence of the UK Merger. Following the UK Merger, DHUK will maintain its current corporate structure and corporate name and registration number and will continue to be governed by the laws of England.

Section 7.04(a)(ii) of the Credit Agreement requires that in the event any Subsidiary merges with the Foreign Borrower, the Foreign Borrower shall be the continuing or surviving Person of such merger, and Section 11.01(j) of the Credit Agreement requires the consent of each Lender for the release of any Borrower or the assignment or transfer by any Borrower of any of its rights or obligations under the Credit Agreement or the other Loan Documents.

The Loan Parties have requested that the Administrative Agent and all of the Lenders (i) consent as of the date hereof to the UK Merger notwithstanding Section 7.04(a)(ii) and Section 11.01(j) of the Credit Agreement (or any other provision of the Credit Agreement or the other Loan Documents) and (ii) agree to amend the Credit Agreement as of December 31, 2020 to, among other things, accommodate the UK Merger. Subject to the terms and conditions set forth herein, the Administrative Agent and each of the Lenders have agreed to grant such requests of the Loan Parties.

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

1. Defined Terms. Except as otherwise provided herein, all capitalized undefined terms used in this Agreement (including, without limitation, in the introductory paragraph and the preliminary statements hereto) shall have the meanings assigned thereto in the Credit Agreement.

2. Consent. Subject to the terms and conditions hereof, and notwithstanding Section 7.04(a)(ii) and Section 11.01(j) of the Credit Agreement (or any other provision of the Credit Agreement or the other Loan Documents), the Administrative Agent and the Lenders hereby consent as of the date hereof to the UK Merger (the "Consent").

3. Conditions to Effectiveness of Consent. The Consent shall be effective upon the Administrative Agent's receipt of executed counterparts of this Agreement signed by the Loan Parties, the Administrative Agent and the Lenders, which shall be originals or electronic images in a portable document format (e.g. ".pdf" or ".tif") (followed promptly by originals), properly executed by a Responsible Officer of the signing Loan Party (such date, the "Consent Effective Date").

4. Credit Agreement Amendments. Subject to the terms and conditions hereof, on the Amendment Effective Date:

(a) the Credit Agreement is hereby amended as set forth on Exhibit A attached hereto; and

(b) Schedule 5.08(e) (Existing Investments) and Schedule 5.13 (Subsidiaries; Other Equity Investments) of the Credit Agreement are each hereby replaced in its entirety with Schedule 5.08(e) and Schedule 5.13 delivered on the date hereof to the Administrative Agent and the Lenders (the foregoing (a) and (b), collectively, the "Amendment").

5. Conditions to Effectiveness of Amendment. The Amendment shall be effective upon satisfaction of each of the following conditions (such date, the "Amendment Effective Date"):

(a) The Consent Effective Date shall have occurred.

(b)(i) The UK Merger shall have come into effect (or shall come into effect simultaneously with the Amendment Effective Date) and (ii) the Administrative Agent shall have received, in form and substance reasonably satisfactory to the Administrative Agent, a true copy of (A) the UK Merger Terms, (B) a notarial deed of pre-merger certificate (executed by a Dutch civil law notary, pursuant to the Dutch Civil Code), certifying that DHBV has completed properly the Dutch pre-merger acts and formalities in respect of the UK Merger, and (C) any Court order relating to the UK Merger, including any UK Court order pursuant to regulation 6 of the UK Regulations certifying that DHUK has completed properly the required pre-merger acts and formalities and any UK Court order pursuant to regulation 16 of the UK Regulations approving the completion of the UK Merger and fixing the date on which the UK Merger will become effective, each of which shall be a certified copy or electronic image in a portable document format (e.g. “.pdf” or “.tif”).

(c) The Administrative Agent’s receipt of the following, each of which shall be originals or electronic images in a portable document format (e.g. “.pdf” or “.tif”) (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each (other than certificates and reports delivered pursuant to clauses (i) and (ii) below) dated the Amendment Effective Date (or a date falling before the Amendment Effective Date as the Administrative Agent may agree) and each in form and substance reasonably satisfactory to the Administrative Agent and each of the Lenders:

(i) a favorable opinion of Sheppard, Mullin, Richter & Hampton, LLP, counsel to the Loan Parties, addressed to the Administrative Agent and each Lender, as to matters concerning the Loan Parties and the Loan Documents as the Administrative Agent may reasonably request;

(ii) a favorable opinion of local counsel to the Loan Parties in the United Kingdom, addressed to the Administrative Agent and each Lender, as to matters concerning the Loan Parties and the Loan Documents as the Administrative Agent may reasonably request;

(iii) each item set forth on Schedule A attached hereto; and

(iv) such other assurances, certificates, documents, filings, information, consents or opinions as the Administrative Agent, the L/C Issuer, the Swing Line Lender or the Lenders reasonably may require.

(d)(i) Upon the reasonable request of any Lender made prior to the Amendment Effective Date, DHUK shall have provided to such Lender, and such Lender shall be reasonably satisfied with, the documentation and other information so requested in connection with applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the Act and (ii) any Borrower (including, for the avoidance of doubt, DHUK) that qualifies as a “legal entity customer” under the Beneficial Ownership Regulation shall have provided, to each Lender that so requests, a Beneficial Ownership Certification in relation to such Borrower.

(e) The Loan Parties shall have paid all reasonable fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) prior to or on the Amendment Effective Date.

Notwithstanding anything in this Agreement, including the Consent, or in the other Loan Documents to the contrary, should the Amendment Effective Date not occur on or prior to December 31, 2020 (unless

extended by the Administrative Agent in its sole discretion), there shall be deemed to be an Event of Default under the Credit Agreement.

6. Payment of Fees and Expenses. On the Consent Effective Date, the Loan Parties shall pay all reasonable fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent).

7. Certificate of the Domestic Borrower. On the Consent Effective Date, the Domestic Borrower shall deliver to the Administrative Agent such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of the Domestic Borrower as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party.

8. Opinions. On the Consent Effective Date, the Loan Parties shall deliver to the Administrative Agent, each in form and substance reasonably satisfactory to the Administrative Agent and each of the Lenders:

(i) a favorable opinion of Sheppard, Mullin, Richter & Hampton, LLP, counsel to the Loan Parties, addressed to the Administrative Agent and each Lender and dated the Consent Effective Date, as to matters concerning the Loan Parties and the Loan Documents as the Administrative Agent may reasonably request; and

(ii) a favorable opinion of local counsel to the Loan Parties in the United Kingdom, addressed to the Administrative Agent and each Lender and dated the Consent Effective Date, as to matters concerning the Loan Parties and the Loan Documents as the Administrative Agent may reasonably request;

each of which shall be originals or electronic images in a portable document format (e.g. “.pdf” or “.tif”) (followed promptly by originals).

9. Effect of this Agreement. Except as expressly provided herein, the Credit Agreement, the Collateral Agreement and the other Loan Documents shall remain unmodified and in full force and effect. Except as expressly set forth herein, this Agreement shall not be deemed (a) to be a waiver of, or consent to a modification of or amendment of, any other term or condition of the Credit Agreement, the Collateral Agreement or any other Loan Document, (b) to prejudice any other right or rights which the Administrative Agent or the Lenders may now have or may have in the future under or in connection with the Credit Agreement, the Collateral Agreement or the other Loan Documents or any of the instruments or agreements referred to therein, as the same may be amended, restated, supplemented or otherwise modified from time to time, (c) to be a commitment or any other undertaking or expression of any willingness to engage in any further discussion with the Loan Parties or any other Person with respect to any waiver, amendment, modification or any other change to the Credit Agreement, the Collateral Agreement or the other Loan Documents or any rights or remedies arising in favor of the Lenders or the Administrative Agent, or any of them, under or with respect to any such documents, (d) to be a waiver of, or consent to a modification or amendment of, any other term or condition of any other agreement by and among any Loan Party, on the one hand, and the Administrative Agent or any other Lender, on the other hand or (e) to be a course of dealing or a consent to any departure by the Loan Parties from any other term or requirement of the Credit Agreement. References in this Agreement to the Credit Agreement (and indirect references such as “hereunder”, “hereby”, “herein”, and “hereof”) and in any Loan Document to the Credit Agreement shall be deemed to be references to the Credit Agreement as modified hereby.

10. Representations and Warranties/No Default. By their execution hereof, each Loan Party hereby represents and warrants as follows:

(a) Such Loan Party has the right, power and authority and has taken all necessary corporate and other action to authorize the execution and delivery of, and the performance in accordance with their respective terms of the transactions consented to in, this Agreement and each other document executed in connection herewith to which it is a party.

(b) This Agreement and each other document executed in connection herewith has been duly executed and delivered by its duly authorized officers, and each such document constitutes the legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar state or federal debtor relief laws from time to time in effect which affect the enforcement of creditors' rights in general and the availability of equitable remedies.

(c) Each of the representations and warranties set forth in the Credit Agreement and the other Loan Documents is true and correct as of the date hereof and on the Amendment Effective Date (provided that DHBV shall no longer exist per such Amendment Effective Date), except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that the representations and warranties contained in subsections (a) and (b) of Section 5.05 of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01 of the Credit Agreement.

(d) No Default or Event of Default has occurred or is continuing nor would any Default or Event of Default result after giving effect to this Agreement and the transactions contemplated hereby.

(e) No Loan Party is an Affected Financial Institution.

11. Assumption. As of the Amendment Effective Date, DHUK hereby confirms, represents and warrants that as a result of the UK Merger, DHUK (and no other entity) will acquire by operation of any relevant law all of the assets and liabilities of DHBV and that DHUK (i) acquires by operation of law and (ii) hereby assumes all of the rights and obligations (including the Foreign Obligations) of DHBV under the Credit Agreement and the other Loan Documents (including each of the Revolving Credit Notes) (in furtherance of, and not in lieu of, any assumption or deemed assumption as a matter of law) and hereby is joined to the Credit Agreement and the other Loan Documents, as applicable, as the Foreign Borrower thereunder (the "Foreign Borrower Assumption"). DHUK undertakes to take any steps necessary to complete and perfect the UK Merger and the acquisition and transfer of any assets and assumption of any rights and obligations purported or intended to be transferred or assigned to DHUK by DHBV pursuant to the UK Merger.

12. Reaffirmations. As of each of the Consent Effective Date and the Amendment Effective Date (provided that DHBV shall no longer exist on the Amendment Effective Date),

(a) each Loan Party agrees that the transactions contemplated by this Agreement shall not limit or diminish the obligations of such Person under, or release such Person from any obligations under, the Credit Agreement (including the Guaranty), the Collateral Agreement and each other Loan Document to which it is a party;

(b) each Loan Party confirms, ratifies and reaffirms its obligations under the Credit Agreement (including the Guaranty), the Collateral Agreement and each other Loan Document to which it is a party and acknowledges and agrees that its Guaranty of, and pledge of Collateral pursuant to the Collateral Documents to which it is a party to secure, the Foreign Obligations and the other Obligations, as applicable, shall remain in full force and effect upon the Consent Effective Date, the Amendment Effective Date and upon the consummation of the UK Merger and the Foreign Borrower Assumption; and

(c) each Loan Party agrees that, except as otherwise expressly agreed in this Agreement, the Credit Agreement (including the Guaranty), the Collateral Agreement and each other Loan Document to which it is a party remain in full force and effect and are hereby ratified and confirmed.

13. Confirmation as to Dutch Collateral Documents. Reference is made to (i) that certain Deed of Pledge of Shares dated May 29, 2020, among the Domestic Borrower, as pledgor, Administrative Agent, as pledgee and the Foreign Borrower, as company (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “DHBV Dutch Share Pledge”), (ii) that certain omnibus pledge agreement dated 8 January 2013, between Diodes International B.V., as pledgor and Administrative Agent, as pledgee (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “DIBV Omnibus Pledge Agreement”), (iii) that certain omnibus pledge agreement dated July 18, 2016, between the Foreign Borrower, as pledgor and Administrative Agent, as pledgee (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “DHBV Omnibus Pledge Agreement”), (iv) that certain Deed of Pledge of Shares dated October 20, 2016 between, among others, the Domestic Borrower as pledgor, Administrative Agent, as pledgee and DHBV, as company (the “2016 DHBV Dutch Share Pledge”) and (v) that certain omnibus pledge agreement dated May 29, 2020, between the Foreign Borrower, as pledgor and Administrative Agent, as pledgee (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Additional DHBV Omnibus Pledge Agreement”, together with the DHBV Omnibus Pledge Agreement, the DIBV Omnibus Pledge Agreement, the DHBV Dutch Share Pledge and the 2016 DHBV Dutch Share Pledge, the “Dutch Collateral Documents”). Each party to the Dutch Collateral Documents hereby confirms that, effective upon and after the Consent Effective Date (provided that DHBV shall no longer exist on the Amendment Effective Date, on which date the confirmation set forth in this Section 13 shall terminate):

(a) the Credit Agreement and the other Loan Documents will remain in full force and effect and any reference in the Loan Documents to the Credit Agreement or to any provision of the Credit Agreement will be construed as a reference to the Credit Agreement, or that provision, after giving effect to the Consent;

(b) notwithstanding the Consent, the Dutch Collateral Documents and the security interests created thereunder will remain in full force and effect and will continue to secure all liabilities which are expressed to be secured by them and the rights of the Loan Parties under such security interest will not be affected by this Agreement;

(c) (i) any amount owed by any Borrower under this Agreement and the Credit Agreement continues to be or has become part of each Loan Party’s Parallel Debts (as included/defined in the Credit Agreement) and (ii) and each Loan Party’s Parallel Debts continue to be part of the Secured Obligations (as included and defined in the Dutch Collateral Documents); and

(d) at the time of the entering into the Dutch Collateral Documents, it was their intention that the security rights created pursuant to the Dutch Collateral Documents would

provide security for the Secured Obligations (as defined in the Dutch Collateral Documents) as they may be amended, restated, supplemented or otherwise modified from time to time, including amendments to the Credit Agreement and the Loan Documents, including amendments to the Credit Agreement and the Loan Documents such as the Consent.

14. Miscellaneous

(a) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. Without limiting the general applicability of the foregoing and the terms of the other Loan Documents to this Agreement and the parties hereto, the terms of Section 11.14 and Section 11.15 of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

(b) Loan Document. This Agreement shall constitute a “Loan Document” under and as defined in the Credit Agreement.

(c) Counterparts; Electronic Execution. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

(d) Severability. If any provision of this Agreement is determined to be illegal, invalid or unenforceable, such provision shall be fully severable and the remaining provisions shall remain in full force and effect and shall be construed without giving effect to the illegal, invalid or unenforceable provisions.

(e) Entirety. This Agreement, the other Loan Documents and the other documents relating to the Obligations represent the entire agreement of the parties hereto and thereto, and supersede all prior agreements and understandings, oral or written, if any, including any commitment letters or correspondence relating to the Loan Documents, any other documents relating to the Obligations, or the transactions contemplated herein and therein.

[Remainder of page intentionally blank.]

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

DOMESTIC BORROWER:

DIODES INCORPORATED

By: /s/ Brett R. Whitmire

Name: Brett R. Whitmire

Title: CFO

FOREIGN BORROWER:

DIODES HOLDING B.V.

By: /s/ Brett R. Whitmire

Name: Brett R. Whitmire

Title: Managing Director A

By: /s/ E. Denekamp

Name: E. Denekamp

Title: Managing Director B

SUBSIDIARY GUARANTOR:

DIODES ZETEX LIMITED

By: /s/ Brett R. Whitmire

Name: Brett R. Whitmire

Title: Director

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

SUBSIDIARY GUARANTOR AND, EFFECTIVE UPON THE UK MERGER, FOREIGN BORROWER:

The undersigned hereby confirms that, as a result of the UK Merger described in this Agreement, it shall acquire and, effective upon the UK Merger, hereby assumes all of the rights and obligations of DHBV under the Credit Agreement and the other Loan Documents (in furtherance of, and not in lieu of, any assumption or deemed assumption as a matter of law) and, effective upon the UK Merger, is hereby joined to the Credit Agreement and the other Loan Documents, as applicable, as the Foreign Borrower thereunder, all in accordance with the provisions of this Agreement.

DIODES HOLDINGS UK LIMITED

By: /s/ Brett R. Whitmire

Name: Brett R. Whitmire

Title: Director

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

BANK OF AMERICA, N.A.,
as Administrative Agent

By: /s/ Taelitha Bonds-Harris

Name: Taelitha Bonds-Harris

Title: Assistant Vice President

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

BANK OF AMERICA, N.A.,
as a Lender, L/C Issuer and Swing Line Lender

By: /s/ Jennifer Yan

Name: Jennifer Yan

Title: Senior Vice President

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

BBVA USA,
as a Lender

By: /s/ Jay S. Tweed

Name: Jay S. Tweed

Title: SVP

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

PNC BANK, NATIONAL ASSOCIATION,
as a Lender

By: /s/ R. Ruining Nguyen

Name: R. Ruining Nguyen

Title: SVP

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

CITIBANK, N.A.,
as a Lender

By: /s/ Stuart Darby

Name: Stuart Darby

Title: Senior Vice President

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

REGIONS BANK,
as a Lender

By: /s/ Derek Miller

Name: Derek Miller

Title: Director

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

COMERICA BANK,
as a Lender

By: /s/ John Smithson

Name: John Smithson

Title: Vice President

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

SILICON VALLEY BANK,
as a Lender

By: /s/ John Ryan

Name: John Ryan

Title: Vice President

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

CADENCE BANK, N.A.,
as a Lender

By: /s/ David C. Hauglid

Name: David C. Hauglid

Title: SVP

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

HSBC BANK USA, N.A.,
as a Lender

By: /s/ Shaun R. Kleinman

Name: Shaun R. Kleinman

Title: Senior Vice President

Signature Page to Consent and Amendment No. 2 to Second A&R Credit Agreement
Diodes Incorporated

SCHEDULE A
FOREIGN CLOSING DOCUMENTATION

1. All executed pledge documentation necessary to effect the pledge by DHUK of 100% of the Equity Interests in Diodes Hong Kong Limited under Hong Kong law, accompanied by such other authorizing resolutions, agreements, assurances, documents, certificates, filings, notarizations, recordations, searches and legal opinions as may be required under local law to ensure the validity and enforceability of such Collateral Document or as the Administrative Agent may reasonably request.
 2. All executed security documentation necessary to effect the charge by the Domestic Borrower of 100% of the Equity Interests in DHUK under the laws of England and Wales, accompanied by such other authorizing resolutions, agreements, assurances, documents, certificates, filings, notarizations, recordations, searches and legal opinions as may be required under local law to ensure the continuing validity and enforceability of such Collateral Document or as the Administrative Agent may reasonably request.
 3. Executed counterparts of an English law debenture, dated as of the date of completion of the UK Merger, granted by DHUK and Diodes Zetex Limited in favor of the Administrative Agent and related authorizing resolutions, agreements, assurances, documents, certificates, filings, notarizations, recordations, searches and legal opinions as may be required under local law to ensure the validity and enforceability of such debenture or as the Administrative Agent may reasonably request.
 4. Executed counterparts of a deed of guarantee governed by English law, dated as of the date of completion of the UK Merger, granted by DHUK and Diodes Zetex Limited, and related authorizing resolutions, agreements, assurances, documents, certificates, filings, notarizations, recordations, searches and legal opinions as may be required under local law or as the Administrative Agent may reasonably request.
 5. All executed documentation necessary to release and terminate (i) that certain Deed of Pledge of Shares dated May 29, 2020, among the Domestic Borrower, as pledgor, Administrative Agent, as pledgee and DHBV, as company, (ii) that certain omnibus pledge agreement dated 8 January 2013, between Diodes International B.V., as pledgor and Administrative Agent, as pledgee, (iii) that certain omnibus pledge agreement dated July 18, 2016, between DHBV, as pledgor and Administrative Agent, as pledgee, (iv) that certain omnibus pledge agreement dated May 29, 2020, between DHBV, as pledgor and Administrative Agent, as pledgee, and (v) that certain Deed of Pledge of Shares dated 20 October 2016 between the Domestic Borrower, as pledgor, Administrative Agent, as pledgee and DHBV, as company.
-

EXHIBIT A

AMENDED CREDIT AGREEMENT

(Attached)

Published CUSIP Number: 25454HAG5
Revolver Facility CUSIP Number: 25454HAH3
Initial Term Facility CUSIP Number: 25454HAJ9
Acquisition Draw Term Facility CUSIP Number: 25454HAK6

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

Dated as of May 29, 2020¹

among

DIODES INCORPORATED,
as the Domestic Borrower,

DIODES HOLDINGS UK LIMITED,
as the Foreign Borrower,

DIODES ZETEX LIMITED and
DIODES TECHNOLOGIES TAIWAN CO., LTD.
as Guarantors,

BANK OF AMERICA, N.A.,
as Administrative Agent, Swingline Lender
and
an L/C Issuer,

The Other L/C Issuers Party Hereto,

and

The Other Lenders Party Hereto

BOFA SECURITIES, INC.,
BBVA SECURITIES INC. and
PNC CAPITAL MARKETS LLC,
as Joint Lead Arrangers and Joint Bookrunners

¹ Conformed through Amendment No. 1 to Second Amended and Restated Credit Agreement dated as of September 21, 2020, Consent Agreement with Respect to Second Amended and Restated Credit Agreement and Foreign Security Agreements dated as of November 2, 2020 and Consent and Amendment No. 2 to Second Amended and Restated Credit Agreement, dated as of November 17, 2020.

BBVA USA and
PNC BANK, NATIONAL ASSOCIATION,
as Co-Syndication Agents

and

CITIBANK, N.A. and
REGIONS BANK,
as Co-Documentation Agents

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SCHEDULES

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EXHIBITS

Form of

A	Committed Loan Notice
B	Swingline Loan Notice
C-1	Initial Term Note
C-2	Acquisition Draw Term Note
C3	Incremental Term Note
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D	Compliance Certificate
E1	Assignment and Assumption
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F	U.S. Tax Compliance Certificates
G	Notice of Loan Prepayment
H	Secured Party Designation Notice
I	Letter of Credit Report
J	Notice of Additional L/C Issuer

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

This SECOND AMENDED AND RESTATED CREDIT AGREEMENT (“*Agreement*”) is entered into as of May 29, 2020, among DIODES INCORPORATED, a Delaware corporation (the “*Domestic Borrower*”), DIODES HOLDINGS UK LIMITED, a company incorporated and registered under the laws of England and Wales with registration number 06475363 (the “*Foreign Borrower*” and together with the Domestic Borrower, the “*Borrowers*” and each, individually, a “*Borrower*”), certain Subsidiaries of the Domestic Borrower identified on the signature pages hereto as guarantors, each lender from time to time party hereto (collectively, the “*Lenders*” and individually, a “*Lender*”), BANK OF AMERICA, N.A., as Administrative Agent, Swingline Lender and an L/C Issuer and the other L/C Issuers from time to time party hereto.

PRELIMINARY STATEMENTS:

The Borrowers are party to that certain Amended and Restated Credit Agreement, dated as of October 26, 2016 (as amended by that certain Amendment No. 1 to Amended and Restated Credit Agreement and Limited Waiver dated as of February 13, 2017, as amended by that certain Consent to Credit Agreement dated as of May 22, 2017, as amended by that certain Amendment No. 2 to Amended and Restated Credit Agreement dated as of August 24, 2017, as amended by that certain Consent to Credit Agreement dated as of April 20, 2018, as modified by that certain Consent to Credit Agreement dated as of October 16, 2018, as amended by that certain Consent and Amendment No. 3 to Amended and Restated Credit Agreement dated as of December 27, 2018, as amended by that certain Consent to Credit Agreement dated as of January 30, 2019, as amended by that certain Consent and Amendment No. 4 to Amended and Restated Credit Agreement dated as of December 16, 2019, as amended by that certain Consent and Amendment No. 5 to Amended and Restated Credit Agreement and Limited Waiver, dated as of March 20, 2020 and as modified by that certain Consent to Amended and Restated Credit Agreement, dated as of April 17, 2020, and as further amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the “*Existing Credit Agreement*”), among the Borrowers, the Guarantors (as defined therein), the lenders party thereto and the Administrative Agent.

The Borrowers have requested that the Administrative Agent, the Swingline Lender, the L/C Issuers and the Lenders amend and restate the Existing Credit Agreement on the terms and conditions set forth herein, and the Administrative Agent, the Swingline Lender, the L/C Issuers and the Lenders agree to amend and restate the Existing Credit Agreement on the terms and conditions set forth herein to, among other things, extend the Maturity Date and provide for a delayed draw term loan facility to finance a portion of the Lite-On Acquisition (as defined herein).

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

Section 1.01. *Defined Terms*

. As used in this Agreement, the following terms shall have the meanings set forth below:

“*Acquisition Draw Term Availability Period*” means the period from and including the Closing Date to the earliest of (i) December 31, 2020, (ii) the Maturity Date for the Term Facility, (iii) the making of a third Acquisition Draw Term Borrowing and (iv) the date of termination of the Acquisition Draw Term Commitments of the respective Term Lenders to make Acquisition Draw Term Loans pursuant to Section 8.02; *provided* that the Acquisition Draw Term Availability Period shall automatically terminate immediately upon the date on which the Acquisition Draw Term Loans have been drawn in full or upon any termination, cancellation or expiration of the Acquisition Draw Term Commitments as otherwise set forth in this Agreement.

“*Acquisition Draw Term Borrowing*” means a borrowing consisting of simultaneous Acquisition Draw Term Loans of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by each of the Term Lenders pursuant to Section 2.01(a)(ii).

“*Acquisition Draw Term Commitment*” means, as to each Term Lender, its obligation to make Acquisition Draw Term Loans to the Domestic Borrower pursuant to Section 2.01(a)(ii) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Term Lender’s name on Schedule 2.01 under the caption “Acquisition Draw Term Commitment” or opposite such caption in the Assignment and Assumption pursuant to which such Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The Acquisition Draw Term Commitment of all of the Term Lenders on the Closing Date shall be \$340,000,000.

“*Acquisition Draw Term Draw Date*” has the meaning specified in Section 2.01(a)(ii).

“*Acquisition Draw Term Facility*” means, at any time, (a) during the Acquisition Draw Term Availability Period, the sum of all Acquisition Draw Term Loans outstanding at such time and the aggregate amount of the unused Acquisition Draw Term Commitment at such time and (b) thereafter, the aggregate principal amount of all Acquisition Draw Term Loans of all Term Lenders outstanding at such time.

“*Acquisition Draw Term Loan*” means an advance made by any Term Lender under the Acquisition Draw Term Facility.

“*Acquisition Draw Term Note*” means a promissory note made by the Domestic Borrower in favor of a Term Lender evidencing Acquisition Draw Term Loans made by such Term Lender, substantially in the form of *Exhibit C-2*.

“*Additional Secured Obligations*” means all obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements, in each case whether direct or indirect (including those

acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, expenses and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, expenses and fees are allowed claims in such proceeding; *provided* that Additional Secured Obligations of a Loan Party shall exclude any Excluded Swap Obligations with respect to such Loan Party.

“*Administrative Agent*” means Bank of America (or any of its designated branch offices or affiliates) in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“*Administrative Agent’s Office*” means, with respect to any currency, the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 11.02 with respect to such currency, or such other address or account with respect to such currency as the Administrative Agent may from time to time notify the Domestic Borrower and the Lenders.

“*Administrative Questionnaire*” means an administrative questionnaire in substantially the form of *Exhibit E-2* or any other form approved by the Administrative Agent.

“*Affected Financial Institution*” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

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

“*Agent Parties*” has the meaning specified in Section 11.02(c).

“*Aggregate Commitments*” means the Commitments of all the Lenders.

“*Agreement*” means this Second Amended and Restated Credit Agreement.

“*Alternative Currency*” means each of Euro, Sterling and each other currency (other than Dollars) that is approved in accordance with Section 1.06; *provided* that for each Alternative Currency, such requested currency is an Eligible Currency.

“*Alternative Currency Equivalent*” means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in the applicable Alternative Currency as determined by the Administrative Agent or the Alternative Currency L/C Issuer, as the case may be, by reference to Bloomberg (or such other publicly available service for displaying exchange rates), to be the exchange rate for the purchase of such Alternative Currency with Dollars at approximately 11:00 a.m. on the date two (2) Business Days prior to the date as of which the foreign exchange computation is made; *provided, however*, that if no such rate is available, the “Alternative Currency Equivalent” shall be determined by the Administrative Agent or the Alternative Currency L/C Issuer, as the case may be, using any reasonable method of determination they deem appropriate in their sole discretion (and such determination shall be conclusive absent manifest error).

“*Alternative Currency L/C Issuer*” means Bank of America, through itself or through one of its designated Affiliates or branch offices, in its capacity as issuer of Letters of Credit issued in any Alternative Currency, or any successor issuer thereof.

“*Alternative Currency Sublimit*” means an amount equal to the lesser of the Revolving Credit Facility and \$40,000,000. The Alternative Currency Sublimit is part of, and not in addition to, the Revolving Credit Facility.

“*Applicable Law*” means, as to any Person, all applicable Laws binding upon such Person or to which such a Person is subject.

“*Applicable Percentage*” means (a) in respect of the Term Facility, with respect to any Term Lender at any time, the percentage (carried out to the ninth decimal place) of the Term Facility represented by (i) on or prior to the Closing Date, the sum of such Term Lender’s Initial Term Commitment and Acquisition Draw Term Commitment at such time, (ii) following the Closing Date, at any time during the Acquisition Draw Term Availability Period, the sum of the principal amount of such Term Lender’s Term Loans at such time and such Term Lender’s Acquisition Draw Term Commitment at such time and (iii) thereafter, the principal amount of such Term Lender’s Term Loans at such time, (b) in respect of any Incremental Term Facility, with respect to any Incremental Term Lender at any time, the percentage (carried out to the ninth decimal place) of such Incremental Term Facility represented by (i) on or prior to the applicable Incremental Term Loan Date, such Incremental Term Lender’s Incremental Term Commitment at such time and (ii) thereafter, the principal amount of such Incremental Term Lender’s Incremental Term Loans at such time and (c) in respect of the Revolving Credit Facility, with respect to any Revolving Credit Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Credit Facility represented by such Revolving Credit Lender’s Revolving Credit Commitment at such time. If the commitment of each Revolving Credit Lender to make Revolving Credit Loans and the obligation of the L/C Issuers to make L/C Credit Extensions have been terminated pursuant to Section 8.02, or if the Revolving Credit Commitments have expired, then the Applicable Percentage of each Revolving Credit Lender in respect of the Revolving Credit Facility shall be determined based on the Applicable Percentage of such Revolving Credit Lender in respect of the Revolving Credit Facility most recently in effect, giving effect to any subsequent assignments and to any Lender’s status as a Defaulting Lender at the time of determination. The initial Applicable Percentage of each Lender in respect of each Facility is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or Incremental Term Assumption Agreement pursuant to which such Lender becomes a party hereto, as applicable.

“*Applicable Rate*” means, for any day, the rate per annum set forth below opposite the applicable Pricing Level then in effect (based on the Consolidated Leverage Ratio), it being understood that the Applicable Rate for (a) Revolving Credit Loans that are Base Rate Loans shall be the percentage set forth under the column “Revolving Credit Loans” and “Base Rate”, (b) Revolving Credit Loans that are Eurocurrency Rate Loans shall be the percentage set forth under the column “Revolving Credit Loans” and “Eurocurrency Rate & Letter of Credit Fee”, (c) that portion of a Term Loan comprised of Base Rate Loans shall be the percentage set forth under the column “Term Loan” and “Base Rate”, (d) that portion of a Term Loan comprised of Eurocurrency Rate Loans shall be the percentage set forth under the column “Term Loan” and “Eurocurrency Rate & Letter of Credit Fee”, (e) the Letter of Credit Fee shall be the percentage set forth under the column “Revolving Credit Loans” and “Eurocurrency Rate & Letter of

Credit Fee”, (f) the Commitment Fee shall be the percentage set forth under the column “Commitment Fee”, (g) the Acquisition Draw Commitment Fee shall be the percentage set forth under the column “Acquisition Draw Commitment Fee” and (h) the Applicable Rate for any other Incremental Term Loan shall be as set forth in the Incremental Term Assumption Agreement executed in connection therewith:

APPLICABLE RATE							
Pricing Level	Consolidated Leverage Ratio	Eurocurrency Rate & Letter of Credit Fee		Base Rate		Commitment Fee	Acquisition Draw Commitment Fee
		Revolving Credit Loans	Term Loan	Revolving Credit Loans	Term Loan		
1	< 1.50:1	1.50%	1.50%	0.50%	0.50%	0.20%	0.20%
2	≥ 1.50:1 but < 2.00:1	1.75%	1.75%	0.75%	0.75%	0.25%	0.25%
3	≥ 2.00:1 but < 2.50:1	2.00%	2.00%	1.00%	1.00%	0.30%	0.30%
4	≥ 2.50:1 but < 3.00:1	2.25%	2.25%	1.25%	1.25%	0.375%	0.375%
5	≥ 3.00:1	2.50%	2.50%	1.50%	1.50%	0.40%	0.40%

Any increase or decrease in the Applicable Rate resulting from a change in the Consolidated Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(a); *provided, however*, that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the request of the Required Lenders, Pricing Level 5 shall apply, in each case as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and in each case shall remain in effect until the first Business Day following the date on which such Compliance Certificate is delivered.

Notwithstanding anything to the contrary contained in this definition, (x) the determination of the Applicable Rate for any period shall be subject to the provisions of Section 2.10(b) and (y) for the period from the Closing Date until the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(b) for the fiscal quarter ending December 31, 2020, Pricing Level 3 shall apply. Any adjustment in the Applicable Rate shall be applicable to all Credit Extensions then existing or subsequently made or issued.

“*Applicable Revolving Credit Percentage*” means with respect to any Revolving Credit Lender at any time, such Revolving Credit Lender’s Applicable Percentage in respect of the Revolving Credit Facility at such time.

“*Applicable Time*” means, with respect to any borrowings and payments in any Alternative Currency, the local time in the place of settlement for such Alternative Currency as may be determined by the Administrative Agent or the applicable L/C Issuer, as the case may be, to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

“*Appropriate Lender*” means, at any time, (a) with respect to any Facility, a Lender that has a Commitment with respect to such Facility or holds a Loan with respect to such Facility at such time, (b) with respect to the Letter of Credit Sublimit, (i) the L/C Issuers and (ii) if any Letters of Credit have been issued pursuant to Section 2.03(a), the Revolving Credit Lenders and (c) with respect to the Swingline Sublimit, (i) the Swingline Lender and (ii) if any Swingline Loans are outstanding pursuant to Section 2.04(a), the Revolving Credit Lenders.

“*Approved Fund*” means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“*Arrangers*” means BofA Securities, Inc., BBVA Securities Inc. and PNC Capital Markets, LLC, in their capacities as joint lead arrangers and joint bookrunners.

“*Assignment and Assumption*” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 11.06(b)), and accepted by the Administrative Agent, in substantially the form of *Exhibit E-1* or any other form (including an electronic documentation form generated by use of an electronic platform) approved by the Administrative Agent.

“*Attributable Indebtedness*” means, on any date, (a) in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease or similar payments under the relevant lease or other applicable agreement or instrument that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease or other agreement or instrument were accounted for as a Capitalized Lease.

“*Audited Financial Statements*” means the audited consolidated balance sheet of the Domestic Borrower and its Subsidiaries for the fiscal year ended December 31, 2019, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such fiscal year of the Domestic Borrower and its Subsidiaries, including the notes thereto.

“*Availability Period*” means in respect of the Revolving Credit Facility, the period from and including the Closing Date to the earliest of (a) the Maturity Date for the Revolving Credit Facility, (b) the date of termination of the Revolving Credit Commitments pursuant to Section 2.06, and (c) the date of termination of the commitment of each Revolving Credit Lender to make Revolving Credit Loans and of the obligation of the L/C Issuers to make L/C Credit Extensions pursuant to Section 8.02.

“*Bail-In Action*” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“*Bail-In Legislation*” means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, rule, regulation or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks,

investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

“*Bank of America*” means Bank of America, N.A. and its successors.

“*Base Rate*” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1.00%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate,” and (c) the Eurocurrency Rate plus 1.00%, subject to the interest rate floors set forth therein; and if the Base Rate shall be less than 0.75%, such rate shall be deemed 0.75% for purposes of this Agreement. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. If the Base Rate is being used as an alternate rate of interest pursuant to Section 3.03 hereof, then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

“*Base Rate Loan*” means a Revolving Credit Loan, Term Loan or Incremental Term Loan that bears interest based on the Base Rate. All Base Rate Loans are only available to the Domestic Borrower and shall be denominated in Dollars.

“*Beneficial Ownership Certification*” means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

“*Beneficial Ownership Regulation*” means 31 C.F.R. § 1010.230.

“*Benefit Plan*” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“*Borrowers*” has the meaning specified in the introductory paragraph hereto.

“*Borrower Materials*” has the meaning specified in Section 6.02.

“*Borrowing*” means a Revolving Credit Borrowing, a Term Borrowing, a Swingline Borrowing or an Incremental Term Borrowing, as the context may require.

“*Business Day*” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent’s Office is located and:

(a) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such Eurocurrency Rate Loan, or any other dealings in Dollars to be carried out pursuant to this

Agreement in respect of any such Eurocurrency Rate Loan, means any such day that is a London Banking Day;

(b) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan denominated in Euro; any fundings, disbursements, settlements and payments in Euro in respect of any such Eurocurrency Rate Loan, or any other dealings in Euro to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means a Business Day that is also a TARGET Day;

(c) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan denominated in a currency other than Dollars or Euro, means any such day on which dealings in deposits in the relevant currency are conducted by and between banks in the London or other applicable offshore interbank market for such currency; and

(d) if such day relates to any fundings, disbursements, settlements and payments in a currency other than Dollars or Euro in respect of a Eurocurrency Rate Loan denominated in a currency other than Dollars or Euro, or any other dealings in any currency other than Dollars or Euro to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan (other than any interest rate settings), means any such day on which banks are open for foreign exchange business in the principal financial center of the country of such currency.

“*Capital Expenditures*” means, with respect to any Person for any period, any expenditure in respect of the purchase or other acquisition of any fixed or capital asset (excluding normal replacements and maintenance which are properly charged to current operations).

“*Capitalized Leases*” means all leases that have been or should be, in accordance with GAAP, recorded as capitalized leases.

“*Cash Collateralize*” means to deposit in a Controlled Account or to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the L/C Issuers or Swingline Lender (as applicable) or the Lenders, as collateral for L/C Obligations, the Obligations in respect of Swingline Loans, or obligations of the Revolving Credit Lenders to fund participations in respect of either thereof (as the context may require), cash or deposit account balances or, if the Administrative Agent and the applicable L/C Issuers or Swingline Lender, as applicable, shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and such L/C Issuer or Swingline Lender (as applicable). “*Cash Collateral*” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“*Cash Equivalents*” means any of the following types of Investments, to the extent owned by the Domestic Borrower or any of its Subsidiaries free and clear of all Liens (other than Permitted Liens):

(a) readily marketable obligations issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof having maturities of not more than 360 days from the date of acquisition thereof; *provided* that the full faith and credit of the United States of America is pledged in support thereof;

(b) time deposits with, or insured certificates of deposit or bankers' acceptances of, any commercial bank that (i) (A) is a Lender or (B) is organized under the laws of the United States of America, any state thereof or the District of Columbia or is the principal banking subsidiary of a bank holding company organized under the laws of the United States of America, any state thereof or the District of Columbia, and is a member of the Federal Reserve System, (ii) issues (or the parent of which issues) commercial paper rated as described in clause (c) of this definition and (iii) has combined capital and surplus of at least \$1,000,000,000, in each case with maturities of not more than 90 days from the date of acquisition thereof;

(c) commercial paper issued by any Person organized under the laws of any state of the United States of America and rated at least "Prime-1" (or the then equivalent grade) by Moody's or at least "A-1" (or the then equivalent grade) by S&P, in each case with maturities of not more than 180 days from the date of acquisition thereof;

(d) Investments, classified in accordance with GAAP as current assets of the Domestic Borrower or any of its Subsidiaries, in money market investment programs registered under the Investment Company Act of 1940, which are administered by reputable financial institutions having capital of at least \$1,000,000,000 and the portfolios of which are limited solely to Investments of the character, quality and maturity described in clauses (a), (b) and (c) of this definition; and

(e) Investments made or held in any country outside of the United States of America by any Foreign Subsidiary pursuant to that certain Investment Policy of Diodes Incorporated and Subsidiaries previously provided to the Lenders and as in effect on the date hereof.

"Cash Management Agreement" means any agreement that is not prohibited by the terms hereof to provide treasury or cash management services, including deposit accounts, foreign exchange services, overnight draft, daylight and other overdraft services, credit cards, debit cards, p-cards (including purchasing cards and commercial cards), funds transfer, intraday credit, automated clearinghouse services, zero balance accounts/arrangements, returned check concentration, controlled disbursement, lockbox, account reconciliation and reporting and trade finance services and other cash management services.

"Cash Management Bank" means any Person in its capacity as a party to a Cash Management Agreement that, (a) at the time it enters into a Cash Management Agreement with a Loan Party or any Subsidiary, is a Lender or an Affiliate of a Lender, or (b) at the time it (or its Affiliate) becomes a Lender, is a party to a Cash Management Agreement with a Loan Party or any Subsidiary, in each case in its capacity as a party to such Cash Management Agreement (even if such Person ceases to be a Lender or such Person's Affiliate ceased to be a Lender); *provided*, however, that for any of the foregoing to be included as a "Secured Cash Management Agreement" on any date of determination by the Administrative Agent, the applicable Cash Management Bank (other than the Administrative Agent or an Affiliate of the Administrative Agent) must have delivered a Secured Party Designation Notice to the Administrative Agent prior to such date of determination.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

“*CERCLIS*” means the Comprehensive Environmental Response, Compensation and Liability Information System maintained by the U.S. Environmental Protection Agency.

“*CFC*” means a Person that is a controlled foreign corporation under Section 957 of the Code in which the Domestic Borrower or any Loan Party is a United States shareholder within the meaning of Section 951(b) of the Code.

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

“*Change of Control*” means an event or series of events by which:

(a) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an “option right”)), directly or indirectly, of 35% or more of the Equity Interests of the Domestic Borrower entitled to vote for members of the board of directors or equivalent governing body of the Domestic Borrower on a fully-diluted basis (and taking into account all such securities that such “person” or “group” has the right to acquire pursuant to any option right); or

(b) the Domestic Borrower shall fail to own 100% of the Equity Interests of the Foreign Borrower.

“*Chengdu Letter of Credit*” means the standby documentary credit issued on April 7, 2020 under the Chengdu Letter of Credit Facility in a face amount of \$50,000,000 for the account of Diodes Chengdu for the benefit of The Hongkong and Shanghai Banking Corporation Limited, as the same may be amended or replaced to increase the face amount or extend the expiration date thereof, in any event not to exceed the face amount of \$70,000,000.

“*Chengdu Letter of Credit Facility*” means the banking facility dated as of February 4, 2020 entered into by Diodes Chengdu with HSBC Bank (China) Company Limited, Shanghai Branch, pursuant to which HSBC Bank (China) Company Limited, Shanghai Branch issued the Chengdu Letter of Credit,

and any refinancings, refundings, renewals or extensions thereof; *provided* that the aggregate principal amount of the Chengdu Letter of Credit Facility shall not exceed the face amount of the Chengdu Letter of Credit.

“*Closing Date*” means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 11.01.

“*Closing Date Term Loans*” has the meaning specified in Section 2.01(a)(i).

“*Code*” means the Internal Revenue Code of 1986.

“*Collateral*” means, collectively, all of the “*Collateral*” as defined in and referred to in the Collateral Agreement, all of the collateral referred to in the Foreign Security Agreements and all of the other property that is or is intended under the terms of the Collateral Documents to be subject to Liens in favor of the Administrative Agent for the benefit of the Secured Parties.

“*Collateral Agreement*” means the Amended and Restated Collateral Agreement dated as of the Closing Date, executed by the Domestic Borrower and certain other Loan Parties in favor of the Administrative Agent, for the ratable benefit of the Secured Parties, together with each other collateral agreement, collateral agreement supplement, collateral agreement joinder and notice of grant of security interest delivered pursuant to Section 6.12 or pursuant to Section 6.12 of the Existing Credit Agreement, in each case, as amended, restated, supplemented or otherwise modified from time to time.

“*Collateral Documents*” means, collectively, the Collateral Agreement, the Foreign Security Agreements and each of the collateral assignments, supplements, security agreements, pledge agreements or other similar agreements delivered to the Administrative Agent pursuant to Section 6.12 or pursuant to Section 6.12 of the Existing Credit Agreement, and each of the other agreements, instruments, supplements, addendums or documents that creates or purports to create a Lien in favor of the Administrative Agent for the benefit of the Secured Parties.

“*Commitment*” means an Initial Term Commitment, an Acquisition Draw Term Commitment, an Incremental Term Commitment or a Revolving Credit Commitment, as the context may require.

“*Committed Loan Notice*” means a notice of (a) a Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurocurrency Rate Loans, pursuant to Section 2.02(a), which shall be substantially in the form of *Exhibit A* or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Domestic Borrower.

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

“*Compliance Certificate*” means a certificate substantially in the form of *Exhibit D*.

“*Connection Income Taxes*” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“*Consolidated EBITDA*” means, at any date of determination, an amount equal to Consolidated Net Income of the Domestic Borrower and its Subsidiaries on a consolidated basis for the most recently completed Measurement Period *plus* (a) the following to the extent deducted in calculating such Consolidated Net Income: (i) Consolidated Interest Charges, (ii) the provision for Federal, state, local and foreign income taxes payable, (iii) depreciation and amortization expense, (iv) fees, expenses, costs or charges related to the Lite-On Acquisition up to an aggregate amount not to exceed \$4,000,000, (v) non-cash stock compensation expense, non-cash impairments of assets and intangibles and other non-cash charges (excluding write downs of accounts receivable, write-downs of inventory, and any other non-cash expense to the extent it represents an accrual of or a reserve for cash expense in any future period), (vi) with respect to any acquisitions permitted under Sections 7.03(g) and (i), non-cash adjustments in accordance with GAAP purchase accounting rules under FASB Statement No. 141 and EITF Issue No. 01-3, in the event that such an adjustment is required, in each case, as determined in accordance with GAAP and (vii) other non-recurring expenses reducing such Consolidated Net Income which do not represent a cash item in such period or any future period (in each case of or by the Domestic Borrower and its Subsidiaries for such Measurement Period) and *minus* (b) the following to the extent included in calculating such Consolidated Net Income: (i) Federal, state, local and foreign income tax credits and (ii) all non-cash items increasing Consolidated Net Income (in each case of or by the Domestic Borrower and its Subsidiaries for such Measurement Period). For the purposes of calculating Consolidated EBITDA for any Measurement Period, pursuant to any determination of the Consolidated Leverage Ratio or the Consolidated Fixed Charge Coverage Ratio, (x) the Consolidated EBITDA attributable to any Equity Interests of, or any assets comprising a division or business unit or a substantial part of all of the business of, a Subsidiary of the Domestic Borrower Disposed of during such Measurement Period shall be excluded from the calculation of Consolidated EBITDA as if such Disposition and the repayment of any Indebtedness in connection therewith occurred on the first day of such Measurement Period, and (y) the Consolidated EBITDA attributable to any Person, division or business unit acquired by the Domestic Borrower or any Subsidiary pursuant to an acquisition permitted hereunder during such Measurement Period shall be included in the calculation of Consolidated EBITDA as if such permitted acquisition occurred on the first day of such Measurement Period, giving effect only to such pro forma adjustments as are permitted by SEC Regulation S-X.

“*Consolidated Fixed Charge Coverage Ratio*” means, at any date of determination, the ratio of (a) (i) Consolidated EBITDA, *less* (ii) the aggregate amount of all Capital Expenditures to (b) the sum of (i) Consolidated Interest Charges paid in cash, (ii) the aggregate principal amount of all regularly scheduled principal payments or redemptions or similar acquisitions for value of outstanding debt for borrowed money, but excluding any such payments to the extent refinanced through the incurrence of additional Indebtedness otherwise expressly permitted under Section 7.02, (iii) the aggregate amount of all Restricted Payments paid in cash (other than dividends and other distributions paid by a Subsidiary that is not a Loan Party to its parent if its parent is a Subsidiary or paid by a Loan Party to its parent if its parent is a Loan Party) and (iv) the aggregate amount of Federal, state, local and foreign income taxes paid in cash, in each case, of or by the Domestic Borrower and its Subsidiaries for the most recently completed Measurement Period.

“*Consolidated Funded Indebtedness*” means, as of any date of determination, for the Domestic Borrower and its Subsidiaries on a consolidated basis, the sum of (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including Obligations hereunder) and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments, (b) all purchase money Indebtedness, (c) all direct obligations arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments, (d) all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business, including Indebtedness incurred under Section 7.02(h)), (e) all Attributable Indebtedness in respect of Capitalized Leases and Synthetic Lease Obligations, (f) all obligations under any so-called “asset securitization” transaction (including, without limitation, any Securitization Transaction) or any factoring or accounts receivables financing facilities, (g) without duplication, all Guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (f) above of Persons other than the Domestic Borrower or any Subsidiary, and (h) all Indebtedness of the types referred to in clauses (a) through (g) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which the Domestic Borrower or a Subsidiary is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse to the Domestic Borrower or such Subsidiary.

“*Consolidated Interest Charges*” means, for any Measurement Period, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses in connection with borrowed money (including capitalized interest), including, without limitation, any Securitization Transaction, or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP and (b) the portion of rent expense under Capitalized Leases that is treated as interest in accordance with GAAP, in each case, of or by the Domestic Borrower and its Subsidiaries on a consolidated basis for the most recently completed Measurement Period.

“*Consolidated Leverage Ratio*” means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated EBITDA for the most recently completed Measurement Period.

“*Consolidated Net Income*” means, at any date of determination, the net income (or loss) of the Domestic Borrower and its Subsidiaries on a consolidated basis for the most recently completed Measurement Period; *provided* that Consolidated Net Income shall exclude (a) extraordinary gains and extraordinary losses for such Measurement Period, (b) the net income of any Subsidiary during such Measurement Period to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of such income is not permitted by operation of the terms of its Organization Documents or any agreement, instrument or Law applicable to such Subsidiary during such Measurement Period, except that the Domestic Borrower’s equity in any net loss of any such Subsidiary for such Measurement Period shall be included in determining Consolidated Net Income, and (c) any income (or loss) for such Measurement Period of any Person if such Person is not a Subsidiary, except that the Domestic Borrower’s equity in the net income of any such Person for such Measurement Period shall be included in Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such Measurement Period to the Domestic Borrower or a Subsidiary as a dividend or other distribution (and in the case of a dividend or other distribution to a Subsidiary, such Subsidiary is not precluded from further distributing such amount to the Domestic Borrower as described in clause (b) of this proviso).

“*Contractual Obligation*” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

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

“*Controlled Account*” means each deposit account and securities account that is subject to an account control agreement in form and substance satisfactory to the Administrative Agent and the L/C Issuers.

“*Covered Entity*” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“*Credit Extension*” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“*Debtor Relief Laws*” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, administration or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

“*Default*” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“*Default Rate*” means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate *plus* (ii) the Applicable Rate *plus* (iii) 2% per annum; *provided* that with respect to a Eurocurrency Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan *plus* 2% per annum, and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate *plus* 2% per annum.

“*Defaulting Lender*” means, subject to Section 2.16(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Domestic Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, any L/C Issuer, the Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Loans) within two Business Days of the date when due, (b) has notified the Domestic Borrower, the Administrative Agent, any L/C Issuer or the Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public

statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Domestic Borrower, to confirm in writing to the Administrative Agent and the Domestic Borrower that it will comply with its prospective funding obligations hereunder (*provided* that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Domestic Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-in Action; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.16(b)) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Domestic Borrower, each L/C Issuer, the Swingline Lender and each other Lender promptly following such determination.

"Designated Jurisdiction" means any country, region or territory to the extent that such country, region or territory itself is the subject of any Sanction.

"Designated Lender" has the meaning specified in Section 2.19.

"Determining Party" has the meaning specified in Section 3.02(b).

"Diodes Chengdu" means Diodes Technology (Chengdu) Company Limited, a company organized under the laws of China and a 98.02%-owned indirect Subsidiary of the Domestic Borrower.

"Diodes Hong Kong" means Diodes Hong Kong Limited, a company incorporated in Hong Kong with limited liability, with its registered office at Unit 1405- 1406, Dominion Centre, 43-59 Queen's Road East, Wanchai, Hong Kong.

"Diodes Hong Kong HSBC Indebtedness" means the credit facility entered into by Diodes Hong Kong with The Hongkong and Shanghai Banking Corporation Limited dated as of February 3, 2020, and any refinancings, refundings, renewals or extensions thereof; *provided* that aggregate principal amount of the Diodes Hong Kong HSBC Indebtedness shall not exceed \$70,000,000, and such Indebtedness shall be secured solely by the Chengdu Letter of Credit.

“*Diodes Taiwan SARL*” means Diodes Taiwan SARL, an entity organized under the laws of Luxembourg.

“*Diodes Technologies Taiwan*” means Diodes Technologies Taiwan Co., Ltd., a company limited by shares organized under the laws of Taiwan and wholly-owned indirect Subsidiary of the Domestic Borrower.

“*Diodes Zetex Pension Scheme*” means the Diodes Zetex Pension Scheme established under an interim deed dated March 15, 1984 and governed by a third definitive deed and rules dated January 7, 2009, as amended.

“*Diodes Zetex Pension Scheme Guarantee*” means that certain pension protection fund compliant guarantee by Diodes Zetex Semiconductors Limited, a company incorporated and registered in England and Wales, for the benefit of HR Trustees Limited and others as trustees of the Diodes Zetex Pension Scheme.

“*Diodes Zetex Pension Scheme Legal Charge*” means that legal charge dated March 26, 2012 by and between Diodes Zetex Semiconductors Limited, a company incorporated and registered in England and Wales, HR Trustees Limited and others as trustees of the Diodes Zetex Pension Scheme, pursuant to which Diodes Zetex Semiconductors Limited grants a lien on certain real property located in the United Kingdom to secure obligations under the Diodes Zetex Pension Scheme.

“*Disposition*” or “*Dispose*” means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Loan Party or Subsidiary (or the granting of any option or other right to do any of the foregoing), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith and including any disposition of property to a Divided LLC pursuant to a Division, but excluding any Involuntary Disposition.

“*Divided LLC*” means any limited liability company which has been formed upon consummation of a Division.

“*Division*” means the statutory division of any limited liability company into two or more limited liability companies pursuant to Section 18-217 of the Delaware Limited Liability Company Act or any comparable provision under the Applicable Law of a different jurisdiction.

“*Dollar*” and “*\$*” mean lawful money of the United States.

“*Dollar Equivalent*” means, for any amount, at the time of determination thereof, (a) if such amount is expressed in Dollars, such amount, (b) if such amount is expressed in an Alternative Currency, the equivalent of such amount in Dollars determined by using the rate of exchange for the purchase of Dollars with the Alternative Currency last provided (either by publication or otherwise provided to the Administrative Agent or the Alternative Currency L/C Issuer, as applicable) by the applicable Bloomberg source (or such other publicly available source for displaying exchange rates) on date that is two (2) Business Days immediately preceding the date of determination (or if such service ceases to be available or ceases to provide such rate of exchange, the equivalent of such amount in Dollars as determined by the

Administrative Agent or the Alternative Currency L/C Issuer, as applicable using any method of determination it deems appropriate in its sole discretion) and (c) if such amount is denominated in any other currency, the equivalent of such amount in Dollars as determined by the Administrative Agent or the Alternative Currency L/C Issuer, as applicable, using any method of determination it deems appropriate in its sole discretion. Any determination by the Administrative Agent or the Alternative Currency L/C Issuer pursuant to clauses (b) or (c) above shall be conclusive absent manifest error.

“*Domestic Borrower*” has the meaning specified in the introductory paragraph hereto.

“*Domestic Loan Party*” means the Domestic Borrower or any of the Global Guarantors.

“*Domestic Subsidiary*” means any Subsidiary that is organized under the laws of any political subdivision of the United States.

“*EEA Financial Institution*” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“*EEA Member Country*” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“*EEA Resolution Authority*” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“*Eligible Assignee*” means any Person that meets the requirements to be an assignee under Section 11.06(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 11.06(b)(iii)); *provided* that notwithstanding the foregoing, “*Eligible Assignee*” shall not include (x) the Borrowers or any of the Borrowers’ Affiliates or Subsidiaries or (y) any Person that cannot (either directly or through a Designated Lender) lend to the Foreign Borrower in Alternative Currencies or U.S. Dollars.

“*Eligible Currency*” means any lawful currency other than Dollars that is readily available, freely transferable and convertible into Dollars in the international interbank market available to the Lenders in such market and as to which a Dollar Equivalent may be readily calculated. If, after the designation by the Lenders of any currency as an Alternative Currency, any change in currency controls or exchange regulations or any change in the national or international financial, political or economic conditions are imposed in the country in which such currency is issued, result in, in the reasonable opinion of the Required Lenders (in the case of any Loans to be denominated in an Alternative Currency) or the Alternative Currency L/C Issuer (in the case of any Letter of Credit to be denominated in an Alternative Currency), (a) such currency no longer being readily available, freely transferable and convertible into Dollars, (b) a Dollar Equivalent is no longer readily calculable with respect to such currency, (c) providing such currency is impracticable for the Lenders or (d) no longer a currency in which the

Required Lenders are willing to make such Credit Extensions (each of clauses (a), (b), (c), and (d) a “Disqualifying Event”), then the Administrative Agent shall promptly notify the Lenders and the Borrowers, and such country’s currency shall no longer be an Alternative Currency until such time as the Disqualifying Event(s) no longer exist. Within five (5) Business Days after receipt of such notice from the Administrative Agent, the Borrowers shall repay all Loans in such currency to which the Disqualifying Event applies or convert such Loans into the Dollar Equivalent of Loans in Dollars, subject to the other terms contained herein.

“*Environmental Laws*” means any and all Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

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

“*Environmental Permit*” means any permit, approval, identification number, license or other authorization required under any Environmental Law.

“*Equity Interests*” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

“*ERISA Affiliate*” means any trade or business (whether or not incorporated) under common control with the Domestic Borrower within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

“*ERISA Event*” means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of the Domestic Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a “substantial employer” as defined in Section 4001(a)(2) of

ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Domestic Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization or insolvency; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (g) the determination that any Pension Plan or Multiemployer Plan is considered an at-risk plan or a plan in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Code or Sections 303, 304 and 305 of ERISA; (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Domestic Borrower or any ERISA Affiliate or (i) a failure by the Domestic Borrower or any ERISA Affiliate to meet all applicable requirements under the Pension Funding Rules in respect of a Pension Plan, whether or not waived, or the failure by the Domestic Borrower or any ERISA Affiliate to make any required contribution to a Multiemployer Plan.

“*EU Bail-In Legislation Schedule*” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“*Euro*” and “*€*” mean the single currency of the Participating Member States.

“*Eurocurrency Rate*” means:

(a) for any Interest Period:

(i) with respect to any Credit Extension denominated in a LIBOR Quoted Currency, the rate per annum equal to the London Interbank Offered Rate as administered by ICE Benchmark Administration Limited (or any other Person that takes over the administration of such rate for Dollars for a period equal in length to such Interest Period) (“*LIBOR*”), as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) (in such case, the “*LIBOR Rate*”) at or about 11:00 a.m. (London time) on the Rate Determination Date, for deposits in the relevant currency, with a term equivalent to such Interest Period; and

(ii) denominated in Euros, the rate per annum equal to the Euro Interbank Offered Rate (“*EURIBOR*”), or a comparable or successor rate which rate is approved by the Administrative Agent, as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) (in such case, the “*EURIBOR Rate*”) at or about 11:00 a.m. (Brussels, Belgium time) on the Rate Determination Date with a term equivalent to such Interest Period;

(iii) with respect to any Credit Extension denominated in any other Non-LIBOR Quoted Currency, the rate per annum as designated with respect to such Alternative Currency at the time such Alternative Currency is approved by the Administrative Agent and the relevant Lenders pursuant to Section 1.06; and

(b) for any interest rate calculation with respect to a Base Rate Loan on any date, the rate per annum equal to the LIBOR Rate, at or about 11:00 a.m. (London time) determined two (2) Business Days prior to such date for Dollar deposits being delivered in the London interbank market for deposits in Dollars with a term of one (1) month commencing that day;

provided that (i) to the extent a comparable or successor rate is approved by the Administrative Agent in connection with any rate set forth in this definition, the approved rate shall be applied in a manner consistent with market practice; *provided, further*, that to the extent such market practice is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent and (ii) if the Eurocurrency Rate shall be less than 0.75%, such rate shall be deemed 0.75% for purposes of this Agreement.

“*Eurocurrency Rate Loan*” means a Loan that bears interest at a rate based on clause (a) of the definition of “Eurocurrency Rate”. Eurocurrency Rate Loans may be denominated in Dollars or, in the case of a Revolving Credit Loan, in an Alternative Currency. All Revolving Credit Loans denominated in an Alternative Currency must be Eurocurrency Rate Loans.

“*Event of Default*” has the meaning specified in Section 8.01.

“*Excluded Securitization Subsidiary*” means any special purpose directly or indirectly wholly-owned Subsidiary of the Domestic Borrower created and operated for the sole purpose of engaging only in one or more Qualified Securitization Transactions; *provided* that (a) neither any Borrower nor any of its Subsidiaries shall have any contract, agreement, arrangement or understanding (other than pursuant to a Qualified Securitization Transaction (including with respect to fees payable in the ordinary course of business in connection with the servicing of accounts receivable and related assets)) with such Subsidiary on terms less favorable to the Borrowers or such Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Borrowers and (b) neither any Borrower nor any other Subsidiary of a Borrower shall have any obligation to maintain or preserve such entity’s financial condition or cause such entity to achieve certain levels of operating results; *provided further* that such Excluded Securitization Subsidiary may engage in necessary corporate governance, accounting and other similar incidental transactions required in connection with maintaining its existence.

“*Excluded Subsidiary*” means (a) any Domestic Subsidiary that is a Subsidiary of a Foreign Subsidiary, (b) any CFC or (c) any other Domestic Subsidiary with respect to which, (x) the Administrative Agent and the Domestic Borrower reasonably agree that the cost or other consequences of providing a Guarantee of or granting Liens to secure the Obligations are excessive in relation to the value to be afforded thereby or (y) providing such a Guarantee or granting such Liens could reasonably be expected to result in material adverse tax consequences as determined in good faith by the Domestic Borrower in consultation with the Administrative Agent.

“*Excluded Swap Obligation*” means, with respect to any Loan Party, any Swap Obligation if, and to the extent that, all or a portion of the Guaranty of such Loan Party of, or the grant by such Loan Party of a Lien to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the

Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation thereof) by virtue of such Loan Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act (determined after giving effect to Section 10.10 and any other "keepwell, support or other agreement" for the benefit of such Loan Party and any and all guarantees of such Loan Party's Swap Obligations by other Loan Parties) at the time the Guaranty of such Loan Party, or grant by such Loan Party of a Lien, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a Master Agreement governing more than one Swap Contract, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to Swap Contracts for which such Guaranty or Lien is or becomes excluded in accordance with the first sentence of this definition.

"*Excluded Taxes*" means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Domestic Borrower under Section 11.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a) or (c), amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient's failure to comply with Section 3.01(f), and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA. Notwithstanding anything to the contrary contained in this definition, "Excluded Taxes" shall not include any withholding tax imposed at any time on payments made by or on account of a Foreign Loan Party hereunder or under any other Loan Document; *provided* that such Recipient shall have complied (to the extent applicable) with Section 3.01(e)(i).

"*Existing Credit Agreement*" has the meaning specified in the preliminary statements hereto.

"*Extraordinary Receipt*" means any cash received by or paid to or for the account of any Person not in the ordinary course of business, including tax refunds, pension plan reversions, condemnation awards (and payments in lieu thereof), indemnity payments and any purchase price adjustments, but excluding proceeds of insurance, and excluding proceeds of Dispositions and Involuntary Dispositions.

"*Facility*" means the Term Facility, an Incremental Term Facility or the Revolving Credit Facility, as the context may require.

"*Facility Office*" means the office designated by the applicable Lender through which such Lender will perform its obligations under this Agreement.

"*Facility Termination Date*" means the date as of which all of the following shall have occurred: (a) the Aggregate Commitments have terminated, (b) all Obligations have been paid in full (other than contingent indemnification obligations), and (c) all Letters of Credit have terminated or expired (other

than Letters of Credit as to which other arrangements with respect thereto satisfactory to the Administrative Agent and the applicable L/C Issuers shall have been made).

“*FASB ASC*” means the Accounting Standards Codification of the Financial Accounting Standards Board.

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

“*Federal Funds Rate*” means, for any day, the rate per annum calculated by the Federal Reserve Bank of New York based on such day’s federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; *provided* that if the Federal Funds Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“*Fee Letters*” means, collectively, the letter agreement dated May 12, 2020 among the Domestic Borrower, the Administrative Agent, PNC Bank, National Association, BBVA USA and the Arrangers, the letter agreement dated May 12, 2020 among the Domestic Borrower, the Administrative Agent and BofA Securities, Inc., the letter agreement dated May 12, 2020 among the Domestic Borrower, PNC Bank, National Association and PNC Capital Markets, LLC and the letter agreement dated May 12, 2020 among the Domestic Borrower, BBVA USA and BBVA Securities Inc.

“*First Tier Foreign Subsidiary*” mean a Foreign Subsidiary all or any portion of whose Equity Interests are owned directly by the Domestic Borrower or a Global Guarantor.

“*Foreign Borrower*” has the meaning specified in the introductory paragraph hereto.

“*Foreign Guarantors*” means (a) Diodes Zetex Limited, a company incorporated and registered under the laws of England and Wales, (b) following the Lite-On Acquisition Date, Diodes Technologies Taiwan, (c) each other Foreign Subsidiary that becomes a guarantor and (d) solely with respect to Foreign Obligations consisting of Secured Cash Management Agreements or Secured Hedge Agreements with any other Foreign Loan Party, the Foreign Borrower.

“*Foreign Lender*” means (a) with respect to the Domestic Borrower, a Lender that is not a U.S. Person, and (b) with respect to the Foreign Borrower, a Lender that is resident or organized under the laws of a jurisdiction other than that in which such Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“*Foreign Loan Parties*” means the Foreign Borrower and the Foreign Guarantors.

“*Foreign Obligations*” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Foreign Loan Party arising under any Loan Document or otherwise with respect to (a) any

Loan made to the Foreign Borrower, (b) any Letter of Credit issued for the account of the Foreign Borrower, (c) any Secured Cash Management Agreement with any Foreign Loan Party or (d) any Secured Hedge Agreement with any Foreign Loan Party, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Foreign Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding; *provided* that Foreign Obligations of a Foreign Loan Party shall exclude any Excluded Swap Obligations with respect to such Foreign Loan Party.

“*Foreign Pension Plan*” means any plan, fund (including, without limitation, any super-annuation fund) or other similar program, arrangement or agreement established or maintained outside of the United States by any Loan Party or any of its Subsidiaries primarily for the benefit of employees of such Loan Party or such Subsidiaries residing outside the United States, which plan, fund, or similar program provides or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and which is not subject to ERISA or the Code.

“*Foreign Plan Event*” means the occurrence of any of the following which, individually or in the aggregate, has resulted or could reasonably be expected to result in liability of any Loan Party or an Affiliate thereof in an aggregate amount in excess of the Threshold Amount: (i) the partial or complete withdrawal of any Loan Party or an Affiliate thereof from a Foreign Pension Plan if withdrawal liability is asserted by such plan, or (ii) the termination of a defined benefit Foreign Pension Plan, the institution of proceedings to terminate a defined benefit Foreign Pension Plan, or the imposition of liability on any Loan Party or an Affiliate thereof due to a violation of foreign law with respect to a defined benefit Foreign Pension Plan.

“*Foreign Security Agreements*” means the collective reference to the security agreements, debentures, pledge agreements, charges, deeds, guaranty agreements, and other similar documents and agreements pursuant to which any Loan Party purports to pledge or grant a security interest in any property or assets located outside the United States securing all or any portion of the Obligations or provide credit support for the Obligations, in each case, that are governed by the laws of any jurisdiction outside of the United States, each as may be amended, restated, supplemented or otherwise modified from time to time.

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

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

“*Fronting Exposure*” means, at any time there is a Defaulting Lender that is a Revolving Credit Lender, (a) with respect to any L/C Issuer, such Defaulting Lender’s Applicable Percentage of the outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Revolving Credit Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swingline Lender, such Defaulting Lender’s Applicable Percentage of Swingline Loans other than Swingline Loans as to which such Defaulting

Lender's participation obligation has been reallocated to other Revolving Credit Lenders or Cash Collateralized in accordance with the terms hereof.

“*Fund*” means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“*GAAP*” means generally accepted accounting principles in the United States set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the accounting profession) including, without limitation, the FASB Accounting Standards Codification, that are applicable to the circumstances as of the date of determination, consistently applied and subject to Section 1.03.

“*Global Guarantors*” means (a) each Domestic Subsidiary identified as a “Global Guarantor” on the signature pages to this Agreement, (b) each Domestic Subsidiary that becomes a guarantor of the Obligations, whether pursuant to Section 6.12 or otherwise and (c) solely with respect to Obligations consisting of Secured Cash Management Agreements or Secured Hedge Agreements with any other Loan Party, the Domestic Borrower.

“*Governmental Authority*” means the government of the United States or any other nation, or of 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 (including any supra-national bodies such as the European Union or the European Central Bank).

“*Guarantee*” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“*Guarantors*” means, collectively, (a) Global Guarantors and the Foreign Guarantors and (b) with respect to Additional Secured Obligations owing by any Loan Party or any of its Subsidiaries and any Swap Obligation of a Specified Loan Party (determined before giving effect to Sections 10.01 and 10.10) under the Guaranty, each Borrower.

“*Guaranty*” means, collectively, the Guaranty made by the Guarantors under Article X in favor of the Secured Parties and each guaranty and/or deed of guarantee entered into by a Foreign Guarantor, together with each other guaranty and guaranty supplement delivered pursuant to Section 6.12, in each case, as amended, restated, supplemented or otherwise modified from time to time.

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

“*Hedge Bank*” means any Person in its capacity as a party to a Swap Contract that, (a) at the time it enters into a Swap Contract not prohibited under Articles VI or VII, is a Lender or an Affiliate of a Lender, or (b) at the time it (or its Affiliate) becomes a Lender, is a party to a Swap Contract not prohibited under Articles VI or VII, in each case, in its capacity as a party to such Swap Contract (even if such Person ceases to be a Lender or such Person’s Affiliate ceased to be a Lender); *provided* that, in the case of a Secured Hedge Agreement with a Person who is no longer a Lender (or Affiliate of a Lender), such Person shall be considered a Hedge Bank only through the stated termination date (without extension or renewal) of such Secured Hedge Agreement; *provided further* that for any of the foregoing to be included as a “Secured Hedge Agreement” on any date of determination by the Administrative Agent, the applicable Hedge Bank (other than the Administrative Agent or an Affiliate of the Administrative Agent) must have delivered a Secured Party Designation Notice to the Administrative Agent prior to such date of determination.

“*IFRS*” means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements delivered under or referred to herein.

“*Impacted Loans*” has the meaning assigned to such term in Section 3.03(a).

“*Incremental Term Assumption Agreement*” means an Incremental Term Assumption Agreement in form reasonably satisfactory to the Administrative Agent, among the Borrowers, the Administrative Agent and one or more Incremental Term Lenders.

“*Incremental Term Borrowing*” means a borrowing consisting of simultaneous Incremental Term Loans of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by each of the Incremental Term Lenders pursuant to Section 2.18.

“*Incremental Term Commitment*” means the commitment of any Lender or Eligible Assignee who is or subsequently becomes a Lender pursuant to an Incremental Term Assumption Agreement to make Incremental Term Loans to a Borrower.

“*Incremental Term Facility*” means, at any time, (a) on or prior to an Incremental Term Loan Date, the aggregate amount of any Incremental Term Commitments at such time and (b) thereafter, the aggregate principal amount of the Incremental Term Loans of all Incremental Term Lenders outstanding at such time.

“*Incremental Term Lender*” means a Lender with an Incremental Term Commitment or an outstanding Incremental Term Loan.

“*Incremental Term Loan Date*” means, with respect to any Incremental Term Commitment requested by the Domestic Borrower pursuant to Section 2.18, the date on which such Incremental Term Commitment is requested to become effective.

“*Incremental Term Loans*” means term loans made by one or more Lenders to the Borrowers pursuant to Section 2.18.

“*Incremental Term Note*” means a promissory note made by a Borrower in favor of an Incremental Term Lender evidencing Incremental Term Loans made by such Incremental Term Lender, substantially in the form of *Exhibit C-3*.

“*Indebtedness*” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments;

(c) net obligations of such Person under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than 90 days after the date on which such trade account payable was created);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse; *provided* that if such Person has not assumed or otherwise become liable for such indebtedness, the amount of such indebtedness deemed to be Indebtedness of such Person shall not exceed the fair market value of the property subject to such Lien at the time of determination;

(f) Capitalized Leases and Synthetic Lease Obligations of such Person;

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person or any warrant, right or option to acquire such Equity Interest, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference *plus* accrued and unpaid dividends;

(h) all obligations under any so-called “asset securitization” transaction (including, without limitation, any Securitization Transaction) or any factoring or accounts receivables financing facilities entered into by such Person; and

(i) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of any Capitalized Lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

“*Indemnified Taxes*” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

“*Indemnitees*” has the meaning specified in Section 11.04(b).

“*Information*” has the meaning specified in Section 11.07.

“*Initial Term Borrowing*” means a borrowing consisting of simultaneous Initial Term Loans of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by each of the Term Lenders pursuant to Section 2.01(a)(i).

“*Initial Term Commitment*” means, as to each Term Lender, its obligation to make Initial Term Loans to the Domestic Borrower pursuant to Section 2.01(a)(i) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Term Lender’s name on Schedule 2.01 under the caption “Initial Term Commitment” or opposite such caption in the Assignment and Assumption pursuant to which such Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The Initial Term Commitment of all of the Term Lenders on the Closing Date shall be \$180,000,000.

“*Initial Term Facility*” means, at any time, (a) on or prior to the Closing Date, the aggregate amount of the Initial Term Commitments at such time and (b) thereafter, the aggregate principal amount of the Initial Term Loans of all Term Lenders outstanding at such time.

“*Initial Term Loan*” means an advance made by any Term Lender under the Initial Term Facility.

“*Initial Term Note*” means a promissory note made by the Domestic Borrower in favor of a Term Lender evidencing Initial Term Loans made by such Term Lender, substantially in the form of *Exhibit C-1*.

“*Intercompany Debt*” has the meaning specified in Section 7.02(i).

“*Interest Payment Date*” means, (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the Facility under which such Loan was made; *provided* that if any Interest Period for a Eurocurrency Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan (including a Swingline Loan), the last Business Day of each March, June, September and December and the Maturity Date of the Facility under which such Loan was made (with Swingline Loans being deemed made under the Revolving Credit Facility for purposes of this definition).

“*Interest Period*” means as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, three or six months thereafter (in each case, subject to availability for the interest rate applicable to the relevant currency), as selected by the Domestic Borrower in its Committed Loan Notice; *provided* that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a Eurocurrency Rate Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) any Interest Period pertaining to a Eurocurrency Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the Maturity Date of the Facility under which such Loan was made.

“*Investment*” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person (including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor guarantees Indebtedness of such other Person), or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person which constitute all or substantially all of the assets of such Person or of a division, line of business or other business unit of such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“*Involuntary Disposition*” means any loss of, damage to or destruction of, or any condemnation or other taking for public use of, any property of any Loan Party or any Subsidiary.

“*IP Rights*” has the meaning specified in Section 5.17.

“*IRS*” means the United States Internal Revenue Service.

“*ISDA Definitions*” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

“*ISP*” means the International Standby Practices, International Chamber of Commerce Publication No. 590 (or such later version thereof as may be in effect at the applicable time).

“*Issuer Documents*” means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by any L/C Issuer and the Domestic Borrower (or any Subsidiary) or in favor of such L/C Issuer and relating to such Letter of Credit.

“*Laws*” means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“*L/C Advance*” means, with respect to each Revolving Credit Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Revolving Credit Percentage.

“*L/C Borrowing*” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Credit Borrowing.

“*L/C Commitment*” means, with respect to each L/C Issuer, the commitment of such L/C Issuer to issue Letters of Credit hereunder. The initial amount of each L/C Issuer’s Letter of Credit Commitment is set forth on Schedule 2.03, or if an L/C Issuer has entered into an Assignment and Assumption or has otherwise assumed a Letter of Credit Commitment after the Closing Date, the amount set forth for such L/C Issuer as its Letter of Credit Commitment in the Register maintained by the Administrative Agent. The Letter of Credit Commitment of an L/C Issuer may be modified from time to time by agreement between such L/C Issuer and the Borrowers, and notified to the Administrative Agent.

“*L/C Credit Extension*” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

“*L/C Issuer*” means with respect to a particular Letter of Credit, (a) Bank of America, through itself or through one of its designated Affiliates or branch offices, in its capacity as issuer of such Letter

of Credit issued in Dollars or, acting as Alternative Currency L/C Issuer, any Alternative Currency, or any successor issuer thereof, (b) such other Lender selected by the Borrowers pursuant to Section 2.03(m) from time to time to issue such Letter of Credit issued in Dollars (provided that no Lender shall be required to become an L/C Issuer pursuant to this clause (b) without such Lender's consent), or any successor issuer thereof or (c) any Lender selected by the Borrowers (with the prior consent of the Administrative Agent) to replace a Lender who is a Defaulting Lender at the time of such Lender's appointment as an L/C Issuer (provided that no Lender shall be required to become an L/C Issuer pursuant to this clause (c) without such Lender's consent), or any successor issuer thereof.

"*L/C Obligations*" means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit *plus* the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"*Lender*" means each of the Persons identified as a "Lender" on the signature pages hereto, each other Person that becomes a "Lender" in accordance with this Agreement and, their successors and assigns and, unless the context requires otherwise, includes the Swingline Lender and the Incremental Term Lenders.

"*Lending Office*" means, as to the Administrative Agent, any L/C Issuer or any Lender, the office or offices of such Person described as such in such Person's Administrative Questionnaire, or such other office or offices as such Person may from time to time notify the Domestic Borrower and the Administrative Agent; which office may include any Affiliate of such Person or any domestic or foreign branch of such Person or such Affiliate.

"*Letter of Credit*" means any letter of credit issued hereunder providing for the payment of cash upon the honoring of a presentation thereunder. A Letter of Credit may be a standby letter of credit or a commercial letter of credit payable upon presentation of appropriate supporting documents ("sight"). Letters of Credit may be issued in Dollars or in an Alternative Currency.

"*Letter of Credit Application*" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable L/C Issuer.

"*Letter of Credit Expiration Date*" means the day that is seven days prior to the Maturity Date then in effect for the Revolving Credit Facility (or, if such day is not a Business Day, the next preceding Business Day).

"*Letter of Credit Fee*" has the meaning specified in Section 2.03(h).

"*Letter of Credit Report*" means a certificate substantially the form of Exhibit I or any other form approved by the Administrative Agent.

“*Letter of Credit Sublimit*” means an amount equal to the lesser of (a) \$10,000,000 and (b) the Revolving Credit Facility. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Credit Facility.

“*LIBOR*” has the meaning specified in the definition of Eurocurrency Rate.

“*LIBOR Quoted Currency*” means Dollars and Sterling, in each case as long as there is a published LIBOR rate with respect thereto.

“*LIBOR Replacement Date*” has the meaning specified in Section 3.03(c).

“*LIBOR Successor Rate*” has the meaning specified in Section 3.03(c).

“*LIBOR Successor Rate Conforming Changes*” means, with respect to any proposed LIBOR Successor Rate, any conforming changes to the definition of Base Rate, Interest Period, timing and frequency of determining rates and making payments of interest and other technical, administrative or operational matters (including, for the avoidance of doubt, the definition of Business Day, timing of borrowing requests or prepayment, conversion or continuation notices and length of lookback periods) as may be appropriate, in the discretion of the Administrative Agent, to reflect the adoption and implementation of such LIBOR Successor Rate and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such LIBOR Successor Rate exists, in such other manner of administration as the Administrative Agent determines is reasonably necessary in connection with the administration of this Agreement and any other Loan Document).

“*Lien*” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

“*Lite-On*” means Lite-On Semiconductor Corporation, a corporation organized under the laws of Taiwan.

“*Lite-On Acquisition*” means the acquisition by Diodes Technologies Taiwan of all of the stock of Lite-On from the existing shareholders of Lite-On in accordance with the Lite-On Acquisition Agreement for approximately \$440,000,000 (or the New Taiwan Dollar equivalent thereof) in cash, subject to currency exchange rate changes between the date of this Agreement and the date on which the Lite-On Acquisition is consummated and/or changes in the outstanding share capital of Lite-On as permitted in the Lite-On Acquisition Agreement. Pursuant to the Lite-On Acquisition, Lite-On will become a wholly-owned direct Subsidiary of Diodes Technologies Taiwan and a wholly-owned indirect Subsidiary of the Domestic Borrower.

“*Lite-On Acquisition Agreement*” means the Share Swap Agreement dated as of August 8, 2019 among the Domestic Borrower, Diodes Technologies Taiwan and Lite-On, as amended by the First Amendment to the Share Swap Agreement dated as of March 20, 2020 and as further amended, supplemented or otherwise modified from time to time in accordance with the terms hereof.

“*Lite-On Acquisition Consent Conditions*” means each of the following conditions:

- (a) The Administrative Agent's receipt of the following, each of which shall be originals or electronic images in a portable document format (e.g. “.pdf” or “.tif”) (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the *Lite-On Acquisition Date* (or, in the case of certificates of governmental officials, a recent date before the *Lite-On Acquisition Date*) and each in form and substance reasonably satisfactory to the Administrative Agent and each of the Lenders:
 - (i) the Administrative Agent shall have received an executed joinder agreement with respect to Diodes Technologies Taiwan in form and substance reasonably satisfactory to the Administrative Agent whereby Diodes Technologies Taiwan shall join this Agreement as a Foreign Guarantor;
 - (ii) all executed pledge documentation necessary to effect the pledge by Diodes Technologies Taiwan of 100% of the Equity Interests in Lite-On under Taiwan law, accompanied by such assurances, certificates, documents, consents and/or legal opinions as the Administrative Agent may reasonably request and a copy of the shareholders roster of Lite-On duly certified by Lite-On recording Diodes Technologies Taiwan as registered owner of 100% of the Equity Interests of Lite-On and the pledge of all such shares to the Administrative Agent, except as otherwise set forth on Schedule 6.16;
 - (iii) such certificates of resolutions of the board of directors or consent letter of the sole director of Diodes Technologies Taiwan as the Administrative Agent may reasonably require approving the execution of the joinder agreement and any other related documents and evidencing the identity, authority and capacity of each Responsible Officer of Diodes Technologies Taiwan authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which Diodes Technologies Taiwan shall be a party;
 - (iv) the latest articles of incorporation, corporate registration card and operational procedures for the issuance of guarantees (if any) of Diodes Technologies Taiwan, and such other documents and certifications as the Administrative Agent may reasonably require to evidence that Diodes Technologies Taiwan is duly organized or formed, and that Diodes Technologies Taiwan is validly existing, is authorized to provide guarantees (including the Guaranty given under this Agreement) and is qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;

- (v) a certificate signed by a Responsible Officer of the Domestic Borrower certifying since the Closing Date, there shall have been no “Material Adverse Effect” (as such term is defined in the Lite-On Acquisition Agreement);
- (vi) a certificate from the chief financial officer of the Domestic Borrower and from a Responsible Officer of the Foreign Borrower, attesting to the Solvency of each Borrower and each Guarantor before and after giving effect to the Lite-On Acquisition;
- (vii) the Lenders shall be reasonably satisfied with the amount, types and terms and conditions of all insurance maintained by Diodes Technologies Taiwan and its Subsidiaries, and the Administrative Agent shall have received evidence of such insurance, consistent with the insurance deliverables provided in connection with the Closing Date;
- (viii) pro forma consolidated financial statements of the Domestic Borrower and its Subsidiaries giving effect to the Transaction;
- (ix) pro forma forecasts prepared by management of the Domestic Borrower, in form and substance reasonably satisfactory to the Administrative Agent and the Lenders, of consolidated balance sheets and statements of income or operations and cash flows of the Domestic Borrower and its Subsidiaries on a quarterly basis for the first year following the Closing Date and on an annual basis for each year thereafter during the term of this Agreement, in each case giving effect to the Transaction;
- (x) the annual (or other audited) financial statements of Lite-On and its Subsidiaries for the fiscal years ended 2018 and 2019 and the interim financial statements of Lite-On and its Subsidiaries for the most recent fiscal quarter ended prior to the Lite-On Acquisition Date for which financial statements are available; and
- (xi) favorable opinions of Sheppard, Mullin, Richter & Hampton, LLP, counsel to the Loan Parties, Taiwanese counsel to the Loan Parties and such other local counsel as may be requested by the Administrative Agent, in each case addressed to the Administrative Agent and each Lender, as to matters concerning the Loan Parties and the Loan Documents as the Lenders may reasonably request.
- (b) All of the existing Indebtedness, if any, for borrowed money of Lite-On and its Subsidiaries (other than Indebtedness permitted to exist pursuant to Section 7.02) shall be repaid in full, and all Liens and other security interests upon any of the property of Lite-On and its Subsidiaries shall be terminated on or prior to the Lite-On Acquisition Date (other than Liens permitted to exist pursuant to Section 7.01 as modified by Supplemental Schedule 5.08(b) delivered to the Administrative Agent on or prior to the Lite-On Acquisition Date).
- (c) The Administrative Agent and the Arrangers shall have completed a due diligence investigation of Lite-On and its Subsidiaries with results reasonably satisfactory to the Administrative Agent and the Arrangers. No changes or developments shall have occurred, and no new or additional information shall have been received or discovered by the Administrative Agent or the Arrangers regarding Lite-On and its Subsidiaries, the Domestic Borrower and its Subsidiaries or the Lite-On

Acquisition after the date such due diligence investigation has been completed that (A) either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect or (B) could reasonably lead the Administrative Agent and the Arrangers to believe that the Domestic Borrower and its Subsidiaries would not have good and marketable title to all of the material assets of Lite-On and its Subsidiaries described in the Lite-On Acquisition Related Documents.

- (d) The Lite-On Acquisition Agreement (including all schedules and exhibits thereto) shall be in form and substance reasonably satisfactory to the Administrative Agent and the Arrangers, and shall be in full force and effect. The Administrative Agent shall have received certified copies of the Lite-On Acquisition Agreement and each other material Lite-On Acquisition Related Document, duly executed by the parties thereto, together with all agreements, instruments and other documents delivered in connection therewith as the Administrative Agent shall request. The Lite-On Acquisition shall have been consummated or shall be simultaneously consummated in accordance with the Lite-On Acquisition Related Documents (without giving effect to any amendment, modification, consent or waiver that would be materially adverse to the Lenders, without the prior written consent of the Administrative Agent and the Arrangers, which consent shall not be unreasonably withheld, delayed or conditioned), and in compliance in all material respects with all applicable Laws and regulatory approvals. As a result of the Lite-On Acquisition, Lite-On shall be a wholly-owned direct Subsidiary of Diodes Technologies Taiwan and a wholly-owned indirect Subsidiary of the Domestic Borrower.

“*Lite-On Acquisition Date*” means the date on which the Lite-On Acquisition is consummated.

“*Lite-On Acquisition Related Documents*” means the Lite-On Acquisition Agreement and all other material documents related thereto or executed in connection therewith.

“*Lite-On Indebtedness*” means the Indebtedness of Lite-On outstanding prior to the Lite-On Acquisition and set forth on Schedule 1.01 (as modified by Supplemental Schedule 1.01 delivered to the Administrative Agent on or prior to the Lite-On Acquisition Date), the aggregate principal amount of which shall not exceed \$150,000,000.

“*Loan*” means an extension of credit by a Lender to a Borrower under Article II in the form of a Revolving Credit Loan, a Swingline Loan, a Term Loan or, if applicable, any Incremental Term Loan.

“*Loan Documents*” means, collectively, (a) this Agreement, (b) the Notes, (c) the Guaranty, (d) the Collateral Documents, (e) the Fee Letters, (f) each Issuer Document (g) each Incremental Term Assumption Agreement and (h) all other certificates, agreements, documents and instruments executed and delivered, in each case, by or on behalf of any Loan Party pursuant to the foregoing (but specifically excluding any Secured Hedge Agreement or any Secured Cash Management Agreement); *provided, however*, that for purposes of Section 11.01, “*Loan Documents*” shall mean this Agreement, the Guaranty and the Collateral Documents.

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

“*London Banking Day*” means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

“*Mandatory Cost*” means any amount incurred periodically by any Lender during the term of the Facility which constitutes fees, costs or charges imposed on lenders generally in the jurisdiction in which such Lender is domiciled, subject to regulation, or has its Facility Office by any Governmental Authority.

“*Master Agreement*” has the meaning specified in the definition of “Swap Contract.”

“*Material Adverse Effect*” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent) or condition (financial or otherwise) of any Borrower or the Domestic Borrower and its Subsidiaries taken as a whole; (b) a material impairment of the rights and remedies of the Administrative Agent or any Lender under any Loan Document, or of the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

“*Material Contract*” means (i) all agreements, indentures or notes governing the terms of any Material Indebtedness, (ii) the Lite-On Acquisition Agreement and (iii) all other agreements, documents, leases, contracts, indentures and instruments for which a default, breach or termination thereof could reasonably be expected to result in a Material Adverse Effect.

“*Material Indebtedness*” means Indebtedness (other than the Loans and Letters of Credit), and obligations in respect of one or more Swap Contracts, of any one or more of the Loan Parties and their Subsidiaries in an aggregate principal amount exceeding \$5,000,000. For purposes of determining Material Indebtedness, the “obligations” of any Loan Party or any Subsidiary in respect of any Swap Contract at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that such Loan Party or such Subsidiary would be required to pay if such Swap Contract were terminated at such time.

“*Material Real Property*” means each parcel (or group of contiguous related parcels) of real property owned by the Domestic Borrower or any Subsidiary located within the United States with a book value equal to or greater than \$5,000,000; all Material Real Property as of the Closing Date is identified on Schedule 5.08(c).

“*Maturity Date*” means (a) with respect to the Term Facility and the Revolving Credit Facility, May 29, 2023 and (b) with respect to any Incremental Term Facility, the maturity date set forth in the applicable Incremental Term Assumption Agreement for such Incremental Term Facility; *provided, however*, that, in each case, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“*Measurement Period*” means, at any date of determination, the most recently completed four fiscal quarters of the Domestic Borrower.

“*Minimum Collateral Amount*” means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances provided to reduce or eliminate Fronting Exposure during the existence of a Defaulting Lender, an amount equal to 103% of the Fronting Exposure of all L/C Issuers with respect to Letters of Credit issued and outstanding at such time, (b) with respect to Cash Collateral consisting of cash or deposit account balances provided in accordance with the provisions of

Section 2.15(a)(i), (a)(ii) or (a)(iii), an amount equal to 103% of the Outstanding Amount of all L/C Obligations, and (c) otherwise, an amount determined by the Administrative Agent and the L/C Issuers in their sole discretion.

“*Moody’s*” means Moody’s Investors Service, Inc. and any successor thereto.

“*Multiemployer Plan*” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which any Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“*Multiple Employer Plan*” means a Plan which has two or more contributing sponsors (including any Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

“*Net Cash Proceeds*” means the aggregate cash or Cash Equivalents proceeds received by any Loan Party or any Subsidiary in respect of any Disposition or Involuntary Disposition, or any Extraordinary Receipt, in each case net of (a) direct costs incurred in connection therewith (including, without limitation, legal, accounting and investment banking fees and sales commissions), (b) taxes paid or payable as a result thereof and any withholding taxes paid or payable in connection therewith or as a result of any intercompany transfer of such cash or Cash Equivalents, and (c) the amount necessary to retire any Indebtedness secured by a Permitted Lien; it being understood that “*Net Cash Proceeds*” shall include, without limitation, any cash or Cash Equivalents received upon the sale or other disposition of any non-cash consideration received by any Loan Party or any Subsidiary in any Disposition or Involuntary Disposition.

“*Non-Consenting Lender*” means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 11.01 and (b) has been approved by the Required Lenders.

“*Non-Defaulting Lender*” means, at any time, each Lender that is not a Defaulting Lender at such time.

“*Non-LIBOR Quoted Currency*” means any currency other than a LIBOR Quoted Currency.

“*Note*” means an Initial Term Note, an Acquisition Draw Term Note, an Incremental Term Note or a Revolving Credit Note, as the context may require.

“*Notice of Additional L/C Issuer*” means a certificate substantially the form of Exhibit J or any other form approved by the Administrative Agent.

“*Notice of Loan Prepayment*” means a notice of prepayment with respect to a Loan, which shall be substantially in the form of Exhibit G or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the applicable Borrower.

“NPL” means the National Priorities List under CERCLA.

“Obligations” means (a) all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan, or Letter of Credit, Secured Cash Management Agreement or Secured Hedge Agreement and (b) all costs and expenses incurred in connection with enforcement and collection of the foregoing, including the fees, charges and disbursements of counsel, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, expenses and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, expenses and fees are allowed claims in such proceeding; *provided* that without limiting the foregoing, Obligations of a Loan Party shall exclude any Excluded Swap Obligations with respect to such Loan Party.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Organization Documents” means, (a) with respect to any corporation, the charter or certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (c) with respect to a *besloten vennootschap met beperkte aansprakelijkheid*, the deed of incorporation and the articles of association and (d) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction) and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity (or equivalent or comparable documents with respect to any non-U.S. jurisdiction).

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.06).

“Outstanding Amount” means (a) with respect to Revolving Credit Loans, Term Loans and Swingline Loans on any date, the Dollar Equivalent amount of the aggregate outstanding principal

amount thereof after giving effect to any borrowings and prepayments or repayments of such Revolving Credit Loans, Term Loans and Swingline Loans, as the case may be, occurring on such date, (b) with respect to Incremental Term Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Incremental Term Loans occurring on such date and (c) with respect to any L/C Obligations on any date, the Dollar Equivalent amount of the aggregate outstanding amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements of Unreimbursed Amounts.

“*Outstanding Term Loan Obligations*” has the meaning specified in Section 2.01(a)(i).

“*Overnight Rate*” means, for any day, (a) with respect to any amount denominated in Dollars, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent, the L/C Issuers, or the Swingline Lender, as the case may be, in accordance with banking industry rules on interbank compensation, and (b) with respect to any amount denominated in an Alternative Currency, an overnight rate determined by the Administrative Agent or the Alternative Currency L/C Issuer, as the case may be, in accordance with banking industry rules on interbank compensation.

“*Participant*” has the meaning specified in Section 11.06(d).

“*Participant Register*” has the meaning specified in Section 11.06(d).

“*Participating Member State*” means any member state of the European Union that adopts or has adopted the Euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“*PBGC*” means the Pension Benefit Guaranty Corporation.

“*Pension Act*” means the Pension Protection Act of 2006.

“*Pension Funding Rules*” means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and Multiemployer Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

“*Pension Plan*” means any employee pension benefit plan (other than a Multiemployer Plan) that is maintained or is contributed to by the Domestic Borrower and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code.

“*Permitted Acquisition*” means the purchase or other acquisition of all of the Equity Interests in, or all or substantially all of the property of, any Person that, upon the consummation thereof, will be wholly-owned directly by the Domestic Borrower or one or more of its wholly-owned Subsidiaries (including as a result of a merger or consolidation), in each case by a Loan Party in accordance with Section 7.03(g). The Lite-On Acquisition shall be deemed a “Permitted Acquisition.”

“*Permitted Liens*” has the meaning set forth in Section 7.01.

“*Permitted Receivables Facility*” means, with respect to Diodes Taiwan SARL or any Subsidiary of the Domestic Borrower organized under the laws of a jurisdiction in Asia, any factoring or accounts receivables financing facilities of Diodes Taiwan SARL or such Subsidiary, as applicable; *provided* that no portion of the indebtedness or any other obligations (contingent or otherwise) under such Permitted Receivables Facility (i) shall be guaranteed by any Borrower or any Subsidiary of a Borrower, (ii) shall be recourse to or obligate any Borrower or any Subsidiary of a Borrower (other than the Subsidiary having entered into such Permitted Receivables Facility) in any way or (iii) shall subject any property or asset of any Borrower or any Subsidiary of a Borrower (other than the Subsidiary having entered into such Permitted Receivables Facility), directly or indirectly, contingently or otherwise, to the satisfaction thereof.

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

“*Plan*” means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of the Domestic Borrower or any ERISA Affiliate or any such Plan to which the Domestic Borrower or any ERISA Affiliate is required to contribute on behalf of any of its employees.

“*Platform*” has the meaning specified in Section 6.02.

“*Pledged Debt*” has the meaning specified in the Collateral Agreement.

“*Pledged Equity*” has the meaning specified in the Collateral Agreement.

“*Pre-Adjustment Successor Rate*” has the meaning specified in Section 3.03(c).

“*PTE*” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“*Public Lender*” has the meaning specified in Section 6.02.

“*Qualified ECP Guarantor*” means, at any time, each Loan Party with total assets exceeding \$10,000,000 or that qualifies at such time as an “eligible contract participant” under the Commodity Exchange Act and can cause another Person to qualify as an “eligible contract participant” at such time under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“*Qualified Securitization Transaction*” means any transaction or series of transactions entered into by the Domestic Borrower or a Subsidiary of the Domestic Borrower and designated by the Domestic Borrower as a Qualified Securitization Transaction, pursuant to which the Domestic Borrower or such Subsidiary (including an Excluded Securitization Subsidiary) may sell, convey or otherwise transfer to (i) any Excluded Securitization Subsidiary or (ii) any other Person (in the case of a transfer by an Excluded Securitization Subsidiary), or may grant a security interest in, any Securitization Assets (whether now existing or arising in the future) of a Loan Party or other Subsidiary of the Domestic Borrower, and any

assets related thereto, including all collateral securing such Securitization Assets, all contracts and all guarantees or other obligations in respect of such Securitization Assets, and proceeds of such Securitization Assets and other assets that are customarily transferred, or in respect of which security interests are customarily granted, in connection with asset securitization transactions involving such types of assets; *provided* that no portion of the indebtedness or any other obligations (contingent or otherwise) under such Qualified Securitization Transaction (i) shall be guaranteed by any Borrower or any Subsidiary of a Borrower, (ii) shall be recourse to or obligate any Borrower or any Subsidiary of a Borrower (other than an Excluded Securitization Subsidiary) in any way (subject solely to the customary satisfaction of Standard Securitization Undertakings in a Qualified Securitization Transaction) or (iii) shall subject any property or asset of any Borrower or any Subsidiary of a Borrower (other than an Excluded Securitization Subsidiary), directly or indirectly, contingently or otherwise, to the satisfaction thereof (subject solely to the customary satisfaction of Standard Securitization Undertakings in a Qualified Securitization Transaction). Any such designation shall be evidenced to the Administrative Agent by delivering to the Administrative Agent written notice of such Qualified Securitization Transaction promptly upon effectiveness certifying that such designation and transaction complied with the foregoing conditions, completed and signed by a Responsible Officer on behalf of the Domestic Borrower and such Excluded Securitization Subsidiary.

“*Rate Determination Date*” means two (2) Business Days prior to the commencement of such Interest Period (or such other day as is generally treated as the rate fixing day by market practice in such interbank market, as determined by the Administrative Agent; *provided* that to the extent such market practice is not administratively feasible for the Administrative Agent, then “Rate Determination Date” means such other day as otherwise reasonably determined by the Administrative Agent).

“*Recipient*” means the Administrative Agent, any Lender, any L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

“*Register*” has the meaning specified in Section 11.06(c).

“*Related Adjustment*” means, in determining any LIBOR Successor Rate, the first relevant available alternative set forth in the order below that can be determined by the Administrative Agent applicable to such LIBOR Successor Rate:

- (A) the spread adjustment, or method for calculating or determining such spread adjustment, that has been selected or recommended by the Relevant Governmental Body for the relevant Pre-Adjustment Successor Rate (taking into account the interest period, interest payment date or payment period for interest calculated and/or tenor thereto) and which adjustment or method (x) is published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion or (y) solely with respect to Term SOFR, if not currently published, which was previously so recommended for Term SOFR and published on an information service acceptable to the Administrative Agent; or
- (B) the spread adjustment that would apply (or has previously been applied) to the fallback rate for a derivative transaction referencing the ISDA Definitions (taking into account the interest period, interest payment date or payment period for interest calculated and/or tenor thereto).

“*Related Parties*” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“*Relevant Governmental Body*” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York.

“*Removal Effective Date*” has the meaning specified in Section 9.06(b).

“*Reportable Event*” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

“*Request for Credit Extension*” means (a) with respect to a Borrowing, conversion or continuation of Term Loans, Incremental Term Loans or Revolving Credit Loans, a Committed Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application, and (c) with respect to a Swingline Loan, a Swingline Loan Notice.

“*Required Incremental Term Lenders*” means, as of any date of determination, with respect to any Incremental Term Facility, Incremental Term Lenders holding more than 50% of such Incremental Term Facility on such date. The portion of any Incremental Term Facility held by any Defaulting Lender shall be disregarded in determining Required Incremental Term Lenders at any time.

“*Required Lenders*” means, as of any date of determination, Lenders holding more than 50% of the sum of the (a) Total Outstandings (with the aggregate amount of each Revolving Credit Lender’s risk participation and funded participation in L/C Obligations and Swingline Loans being deemed “held” by such Revolving Credit Lender for purposes of this definition), (b) aggregate unused Revolving Credit Commitments, (c) aggregate unused Acquisition Draw Term Commitments, if any and (d) aggregate unused Incremental Term Commitments, if any. The Total Outstandings of any Defaulting Lender shall be disregarded in determining Required Lenders at any time; *provided* that, the amount of any participation in any Swingline Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swingline Lender or applicable L/C Issuer, as the case may be, in making such determination.

“*Required Revolving Lenders*” means, as of any date of determination, Revolving Credit Lenders holding more than 50% of the sum of the (a) Total Revolving Credit Outstandings (with the aggregate amount of each Revolving Credit Lender’s risk participation and funded participation in L/C Obligations and Swingline Loans being deemed “held” by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Revolving Credit Commitments. The unused Revolving Credit Commitment of, and the portion of the Total Outstandings of any Defaulting Lender shall be disregarded in determining Required Revolving Lenders at any time; *provided* that, the amount of any participation in any Swingline Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swingline Lender or applicable L/C Issuer, as the case may be, in making such determination.

“*Required Term Lenders*” means, as of any date of determination, with respect to the Term Facility, Term Lenders holding more than 50% of such Term Facility on such date. The portion of the Term Facility held by any Defaulting Lender shall be disregarded in determining Required Term Lenders at any time.

“*Resignation Effective Date*” has the meaning specified in Section 9.06(a).

“*Resolution Authority*” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“*Responsible Officer*” means the chief executive officer, president, chief financial officer, treasurer, assistant treasurer or controller of a Loan Party, solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of a Loan Party and, solely for purposes of notices given pursuant to Article II, any other officer or employee of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent or any other officer or employee of the applicable Loan Party designated in or pursuant to an agreement between the applicable Loan Party and the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. To the extent requested by the Administrative Agent, each Responsible Officer will provide an incumbency certificate and to the extent requested by the Administrative Agent, appropriate authorization documentation, in form and substance satisfactory to the Administrative Agent.

“*Restricted Payment*” means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of the Domestic Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to the Domestic Borrower’s stockholders, partners or members (or the equivalent Person thereof).

“*Revaluation Date*” means, (a) with respect to any Revolving Credit Loan, each of the following: (i) each date of a Borrowing of a Eurocurrency Rate Loan denominated in an Alternative Currency, (ii) each date of a continuation of a Eurocurrency Rate Loan denominated in an Alternative Currency pursuant to Section 2.02, and (iii) such additional dates as the Administrative Agent shall determine or the Required Lenders shall require; and (b) with respect to any Letter of Credit, each of the following: (i) each date of issuance, amendment and/or extension of a Letter of Credit denominated in an Alternative Currency, (ii) each date of any payment by the Alternative Currency L/C Issuer under any Letter of Credit denominated in an Alternative Currency, and (iii) such additional dates as the Administrative Agent or the Alternative Currency L/C Issuer shall determine or the Required Lenders shall require.

“*Revolving Credit Borrowing*” means a borrowing consisting of simultaneous Revolving Credit Loans of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by each of the Revolving Credit Lenders pursuant to Section 2.01(b).

“*Revolving Credit Commitment*” means, as to each Revolving Credit Lender, its obligation to (a) make Revolving Credit Loans to the Borrowers pursuant to Section 2.01(b), (b) purchase participations in L/C Obligations, and (c) purchase participations in Swingline Loans, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender’s name on Schedule 2.01 under the caption “Revolving Credit Commitment” or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The Revolving Credit Commitment of all Revolving Credit Lenders on the Closing Date shall be \$150,000,000.

“*Revolving Credit Exposure*” means, as to any Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Credit Loans and such Lender’s participation in L/C Obligations and Swingline Loans at such time.

“*Revolving Credit Facility*” means, at any time, the aggregate amount of the Revolving Credit Lenders’ Revolving Credit Commitments at such time.

“*Revolving Credit Lender*” means, at any time, (a) so long as any Revolving Credit Commitment is in effect, any Lender that has a Revolving Credit Commitment at such time or (b) if the Revolving Credit Commitments have terminated or expired, any Lender that has a Revolving Credit Loan or a participation in L/C Obligations or Swingline Loans at such time.

“*Revolving Credit Loan*” has the meaning specified in Section 2.01(b).

“*Revolving Credit Note*” means a promissory note made by a Borrower in favor of a Revolving Credit Lender evidencing Revolving Credit Loans or Swingline Loans, as the case may be, made by such Revolving Credit Lender, substantially in the form of *Exhibit C-4*.

“*Revolving Credit Increase Effective Date*” has the meaning specified in Section 2.17(d).

“*S&P*” means Standard & Poor’s Financial Services LLC, a subsidiary of S&P Global Inc., and any successor thereto.

“*Same Day Funds*” means (a) with respect to disbursements and payments in Dollars, immediately available funds, and (b) with respect to disbursements and payments in an Alternative Currency, same day or other funds as may be determined by the Administrative Agent or the Alternative Currency L/C Issuer, as the case may be, to be customary in the place of disbursement or payment for the settlement of international banking transactions in the relevant Alternative Currency.

“*Sanction(s)*” means any sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty’s Treasury (“*HMT*”) or other relevant sanctions authority.

“*SEC*” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“*Secured Cash Management Agreement*” means any Cash Management Agreement that is entered into by and between any Loan Party and any Cash Management Bank.

“*Secured Hedge Agreement*” means any Swap Contract permitted under Article VI or VII that is entered into by and between any Loan Party and any Hedge Bank.

“*Secured Party Designation Notice*” means a notice from any Lender or an Affiliate of a Lender substantially in the form of Exhibit H.

“*Secured Parties*” means, collectively, the Administrative Agent, the Lenders (including Designated Lenders), the L/C Issuers, the Hedge Banks, the Cash Management Banks, each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.05, and the other Persons the Obligations owing to which are or are purported to be secured by the Collateral under the terms of the Collateral Documents.

“*Securitization Assets*” means accounts, payments, receivables, rights to future lease or loan payments or residuals or similar rights to payment, and related rights or assets.

“*Securitization Transaction*” means, with respect to any Person, any financing transaction or series of financing transactions (including, without limitation, factoring arrangements and Qualified Securitization Transactions) pursuant to which such Person or any Subsidiary of such Person may sell, convey or otherwise transfer, or grant a security interest in, Securitization Assets to a special purpose subsidiary or affiliate of such Person (including, without limitation, an Excluded Securitization Subsidiary).

“*SOFR*” with respect to any Business Day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark (or a successor administrator) on the Federal Reserve Bank of New York’s website (or any successor source) at approximately 8:00 a.m. (New York City time) on the immediately succeeding Business Day and, in each case, that has been selected or recommended by the Relevant Governmental Body.

“*Solvent*” and “*Solvency*” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“*Special Notice Currency*” means at any time an Alternative Currency, other than the currency of a country that is a member of the Organization for Economic Cooperation and Development at such time located in North America or Europe.

“*Specified Loan Party*” means any Loan Party that is not then an “eligible contract participant” under the Commodity Exchange Act (determined prior to giving effect to Section 10.10).

“*Standard Securitization Undertakings*” means those representations, warranties, covenants and indemnities entered into by the Loan Parties or any Excluded Securitization Subsidiary which are customary in securitization transactions of a comparable size involving similar Securitization Assets in the jurisdictions applicable to such transactions.

“*Sterling*” and “£” mean the lawful currency of the United Kingdom.

“*Subsidiary*” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power and/or the power for the election of the majority of the directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled (pursuant to an agreement or otherwise), directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Domestic Borrower.

“*Swap Contract*” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “*Master Agreement*”), including any such obligations or liabilities under any Master Agreement.

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

“*Swap Termination Value*” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“*Swingline Borrowing*” means a borrowing of a Swingline Loan pursuant to Section 2.04.

“*Swingline Commitment*” means, as to any Lender (a) the amount set forth opposite such Lender’s name on Schedule 2.01 hereof or (b) if such Lender has entered into an Assignment and Assumption or has otherwise assumed a Swingline Commitment after the Closing Date, the amount set forth for such Lender as its Swingline Commitment in the Register maintained by the Administrative Agent pursuant to Section 11.06(c).

“*Swingline Lender*” means Bank of America in its capacity as provider of Swingline Loans, or any successor swingline lender hereunder.

“*Swingline Loan*” has the meaning specified in Section 2.04(a).

“*Swingline Loan Notice*” means a notice of a Swingline Borrowing pursuant to Section 2.04(b), which shall be substantially in the form of *Exhibit B* or such other form as approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the applicable Borrower.

“*Swingline Sublimit*” means an amount equal to the lesser of (a) \$20,000,000 and (b) the Revolving Credit Facility. The Swingline Sublimit is part of, and not in addition to, the Revolving Credit Facility.

“*Synthetic Lease Obligation*” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

“*TARGET2*” means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007.

“*TARGET Day*” means any day on which TARGET2 (or, if such payment system ceases to be operative, such other payment system, if any, determined by the Administrative Agent to be a suitable replacement) is open for the settlement of payments in Euro.

“*Taxes*” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“*Term Borrowing*” means a borrowing consisting of simultaneous Term Loans of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by each of the Term Lenders pursuant to Article II.

“*Term Facility*” means, at any time, (a) during the Acquisition Draw Term Availability Period, the sum of the Initial Term Loans at such time, the Acquisition Draw Term Loans at such time and the aggregate amount of the unused Acquisition Draw Term Commitment at such time and (b) thereafter, the aggregate principal amount of the Term Loans of all Term Lenders outstanding at such time.

“*Term Lender*” means (a) at any time during the Acquisition Draw Term Availability Period, any Lender that has an Acquisition Draw Term Commitment at such time or holds Initial Term Loans or Acquisition Draw Term Loans at such time and (b) thereafter, any Lender that holds Term Loans at such time.

“*Term Loans*” has the meaning specified in Section 2.01(a)(ii).

“*Term SOFR*” means the forward-looking term rate for any period that is approximately (as determined by the Administrative Agent) as long as any of the Interest Period options set forth in the definition of “Interest Period” and that is based on SOFR and that has been selected or recommended by the Relevant Governmental Body, in each case as published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion.

“*TFSS Investment*” means the investment to be made by the U.S. Borrower in TF Semiconductor Solutions Inc. in the form of a secured revolving credit loan in an aggregate principal amount not to exceed \$3,000,000.

“*Threshold Amount*” means \$5,000,000.

“*Total Outstandings*” means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

“*Total Revolving Credit Outstandings*” means the aggregate Outstanding Amount of all Revolving Credit Loans, Swingline Loans and L/C Obligations.

“*Transaction*” means, collectively, (a) the entering into by the Loan Parties and their applicable Subsidiaries of the Loan Documents to which they are or are intended to be a party, (b) the consummation of the Lite-On Acquisition, (c) the entering into by the Loan Parties and their applicable Subsidiaries of the Lite-On Acquisition Related Documents to which they are or are intended to be a party and (d) the payment of the fees and expenses incurred in connection with the consummation of the foregoing.

“*Type*” means, with respect to a Loan, its character as a Base Rate Loan or a Eurocurrency Rate Loan.

“*UCC*” means the Uniform Commercial Code as in effect in the State of New York; *provided that*, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State

of New York, “UCC” means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

“UCP” means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce (“ICC”) Publication No. 600 (or such later version thereof as may be in effect at the time of issuance).

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“UK Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“United States” and “U.S.” mean the United States of America.

“Unreimbursed Amount” has the meaning specified in Section 2.03(c)(i).

“U.S. Loan Party” means any Loan Party that is organized under the laws of one of the states of the United States of America.

“U.S. Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Code.

“U.S. Tax Compliance Certificate” has the meaning specified in Section 3.01(e)(ii)(B)(III).

“Withholding Agent” means each Loan Party and the Administrative Agent.

“Write-Down and Conversion Powers” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including the Loan Documents and any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, amended and restated, modified, extended, restated, replaced or supplemented from time to time (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “hereto,” “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Preliminary Statements, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Preliminary Statements, Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory rules, regulations, orders and provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified, extended, restated, replaced or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights. Any and all references to “Borrower” regardless of whether preceded by the term a, any, each of, all, and/or, or any other similar term shall be deemed to refer, as the context requires, to each and every (and/or any one or all) parties constituting a Borrower, individually and/or in the aggregate.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(d) Any reference herein to a merger, transfer, consolidation, amalgamation, assignment, sale, disposition, distribution, dividend, investment or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, assignment, sale, disposition, distribution, dividend, investment or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each

division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

Section 1.03. 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 the Audited Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, (i) Indebtedness of the Domestic Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 on financial liabilities shall be disregarded, (ii) all liability amounts shall be determined excluding any liability relating to any operating lease, all asset amounts shall be determined excluding any right-of-use assets relating to any operating lease, all amortization amounts shall be determined excluding any amortization of a right-of-use asset relating to any operating lease, and all interest amounts shall be determined excluding any deemed interest comprising a portion of fixed rent payable under any operating lease, in each case to the extent that such liability, asset, amortization or interest pertains to an operating lease under which the covenantor or a member of its consolidated group is the lessee and would not have been accounted for as such under GAAP as in effect on December 31, 2015 and (iii) all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under FASB ASC Topic 825 “Financial Instruments” (or any other financial accounting standard having a similar result or effect) to value any Indebtedness of the Borrowers or any Subsidiary at “fair value”, as defined therein. For purposes of determining the amount of any outstanding Indebtedness, no effect shall be given to (x) any election by the Borrowers to measure an item of Indebtedness using fair value (as permitted by Financial Accounting Standards Board Accounting Standards Codification 825–10–25 (formerly known as FASB 159) or any similar accounting standard) or (y) any change in accounting for leases pursuant to GAAP resulting from the implementation of Financial Accounting Standards Board ASU No. 2016–02, Leases (Topic 842), to the extent such adoption would require recognition of a lease liability where such lease (or similar arrangement) would not have required a lease liability under GAAP as in effect on December 31, 2015.

(b) *Changes in GAAP.* If at any time any change in GAAP (including the adoption of IFRS) would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Domestic Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Domestic 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 Domestic Borrower shall provide to the Administrative 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.

Section 1.04. Rounding

. Any financial ratios required to be maintained by the Borrowers pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05. Exchange Rates; Currency Equivalents

(a) The Administrative Agent or the L/C Issuers, as applicable, shall determine the Dollar Equivalent amounts of Credit Extensions and Outstanding Amounts denominated in Alternative Currencies. Such Dollar Equivalent shall become effective as of such Revaluation Date and shall be the Dollar Equivalent of such amounts until the next Revaluation Date to occur. Except for purposes of financial statements delivered by Loan Parties hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent or the L/C Issuers, as applicable.

(b) Wherever in this Agreement in connection with a Borrowing, conversion, continuation or prepayment of a Eurocurrency Rate Loan or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Borrowing, Eurocurrency Rate Loan or Letter of Credit is denominated in an Alternative Currency, such amount shall be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent or the Alternative Currency L/C Issuer, as the case may be.

(c) The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to the rates in the definition of "Eurocurrency Rate" or with respect to any rate that is an alternative or replacement for or successor to any of such rate (including, without limitation, any LIBOR Successor Rate) or the effect of any of the foregoing, or of any LIBOR Successor Rate Conforming Changes.

Section 1.06. Additional Alternative Currencies

(a) The Domestic Borrower may from time to time request that Eurocurrency Rate Loans be made and/or Letters of Credit be issued in a currency other than those specifically listed in the definition of "Alternative Currency"; *provided* that (i) such requested currency is an Eligible Currency and (ii) such requested currency shall only be treated as a "LIBOR Quoted Currency" to the extent that there is published LIBOR rate for such currency. In the case of any such request with respect to the making of Eurocurrency Rate Loans, such request shall be subject to the approval of the Administrative Agent and each Lender with a Commitment under which such currency is requested to be made available; and in the case of any such request with respect to the issuance of Letters of Credit, such request shall be subject to the approval of the Administrative Agent and the Alternative Currency L/C Issuer.

(b) Any such request shall be made to the Administrative Agent not later than 11:00 a.m., twenty (20) Business Days prior to the date of the desired Credit Extension (or such other time or date as

may be agreed by the Administrative Agent and, in the case of any such request pertaining to Letters of Credit, the Alternative Currency L/C Issuer, in each case in its sole discretion). In the case of any such request pertaining to Eurocurrency Rate Loans, the Administrative Agent shall promptly notify each Appropriate Lender thereof; and in the case of any such request pertaining to Letters of Credit, the Administrative Agent shall promptly notify the Alternative Currency L/C Issuer thereof. Each Appropriate Lender (in the case of any such request pertaining to Eurocurrency Rate Loans) or the Alternative Currency L/C Issuer (in the case of a request pertaining to Letters of Credit) shall notify the Administrative Agent, not later than 11:00 a.m., ten (10) Business Days after receipt of such request whether it consents, in its sole discretion, to the making of Eurocurrency Rate Loans or the issuance of Letters of Credit, as the case may be, in such requested currency.

(c) Any failure by a Lender or the Alternative Currency L/C Issuer, as the case may be, to respond to such request within the time period specified in the preceding sentence shall be deemed to be a refusal by such Lender or the Alternative Currency L/C Issuer, as the case may be, to permit Eurocurrency Rate Loans to be made or Letters of Credit to be issued in such requested currency. If the Administrative Agent and all the Appropriate Lenders consent to making Eurocurrency Rate Loans in such requested currency and the Administrative Agent and such Lenders reasonably determine that an appropriate interest rate is available to be used for such requested currency, the Administrative Agent shall so notify the Domestic Borrower and (i) the Administrative Agent and such Lenders may amend the definition of Eurocurrency Rate for any Non-LIBOR Quoted Currency to the extent necessary to add the applicable Eurocurrency Rate for such currency and (ii) to the extent the definition of Eurocurrency Rate reflects the appropriate interest rate for such currency or has been amended to reflect the appropriate rate for such currency, such currency shall thereupon be deemed for all purposes to be an Alternative Currency for purposes of any Borrowings of Eurocurrency Rate Loans. If the Administrative Agent and the Alternative Currency L/C Issuer consent to the issuance of Letters of Credit in such requested currency, the Administrative Agent shall so notify the Domestic Borrower and (i) the Administrative Agent and the Alternative Currency L/C Issuer may amend the definition of Eurocurrency Rate for any Non-LIBOR Quoted Currency to the extent necessary to add the applicable Eurocurrency Rate for such currency and (ii) to the extent the definition of Eurocurrency Rate reflects the appropriate interest rate for such currency or has been amended to reflect the appropriate rate for such currency, such currency shall thereupon be deemed for all purposes to be an Alternative Currency, for purposes of any Letter of Credit issuances. If the Administrative Agent shall fail to obtain consent to any request for an additional currency under this Section 1.06, the Administrative Agent shall promptly so notify the Domestic Borrower.

Section 1.07. Change of Currency

(a) Each obligation of the Borrowers to make a payment denominated in the national currency unit of any member state of the European Union that adopts the Euro as its lawful currency after the date hereof shall be redenominated into Euro at the time of such adoption. If, in relation to the currency of any such member state, the basis of accrual of interest expressed in this Agreement in respect of that currency shall be inconsistent with any convention or practice in the London interbank market for the basis of accrual of interest in respect of the Euro, such expressed basis shall be replaced by such convention or practice with effect from the date on which such member state adopts the Euro as its lawful currency; *provided* that if any Revolving Credit Borrowing in the currency of such member state is outstanding immediately prior to such date, such replacement shall take effect, with respect to such Revolving Credit Borrowing, at the end of the then current Interest Period.

(a) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect the adoption of the Euro by any member state of the European Union and any relevant market conventions or practices relating to the Euro.

(b) Each provision of this Agreement also shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect a change in currency of any other country and any relevant market conventions or practices relating to the change in currency.

Section 1.08. Times of Day

. Unless otherwise specified, all references herein to times of day shall be references to U.S. Eastern time (daylight or standard, as applicable).

Section 1.09. Letter of Credit Amounts

. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the Dollar Equivalent of the stated amount of such Letter of Credit in effect at such time; *provided* that with respect to any Letter of Credit that, by its terms or the terms of any Issuer 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 Dollar Equivalent of 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.

Section 1.10. UCC Terms.

Terms defined in the UCC in effect on the Closing Date and not otherwise defined herein shall, unless the context otherwise indicates, have the meanings provided by those definitions. Subject to the foregoing, the term "UCC" refers, as of any date of determination, to the UCC then in effect.

ARTICLE II

THE COMMITMENTS AND CREDIT EXTENSIONS

Section 2.01. The Borrowings.

(a) *Term Borrowing.*

(i) *Initial Term Borrowing.* As of the Closing Date, the outstanding principal amount of the "Term Loan" (as defined in the Existing Credit Agreement) made to the Domestic Borrower is \$55,374,500.00 (the "*Outstanding Term Loan Obligations*"). Subject to the terms and conditions set forth herein, each Term Lender severally agrees to make a single loan to the Domestic Borrower, in Dollars, in a single draw on the Closing Date in an amount equal to such Term Lender's Applicable Percentage of the Initial Term Facility less such Term Lender's Applicable Percentage of the Outstanding Term Loan Obligations (the "*Closing Date Term Loans*", and together with the Outstanding Term Loan Obligations, the "*Initial Term Loan*"). The Initial Term Borrowing shall consist of Initial Term Loans made simultaneously by the Term Lenders in accordance with their respective Applicable Percentage of the Initial Term Facility. Subject to the terms and conditions set forth herein, each of the parties hereto hereby agrees (x)

that the Outstanding Term Loan Obligations shall be, from and following the Closing Date, continued and reconstituted as an Initial Term Loan made to the Domestic Borrower under this Agreement and (y) that concurrently therewith, by their execution of this Agreement, the Lenders have assigned the preexisting loans among themselves, such that, after giving effect to the transactions contemplated by this Agreement, the Outstanding Term Loan Obligations shall be allocated among the Term Lenders in accordance with their respective Applicable Percentage of the Initial Term Facility.

(ii) *Acquisition Draw Term Borrowing.* Subject to the terms and conditions set forth herein, including, without limitation, satisfaction of each condition set forth in Section 4.02, each Term Lender severally agrees to make loans to the Domestic Borrower, in Dollars, during the Acquisition Draw Term Availability Period (the date of each such draw, an “*Acquisition Draw Term Draw Date*”) in an aggregate principal amount equal to such Term Lender’s Applicable Percentage of the Acquisition Draw Term Facility (individually, an “*Acquisition Draw Term Loan*” and collectively the “*Acquisition Draw Term Loans*”, and together with the Initial Term Loans, the “*Term Loans*”); *provided* that the proceeds of each Acquisition Draw Term Loan shall be used solely to finance currency swap transactions by the Borrowers and their Subsidiaries in advance of, and as a portion of, the acquisition consideration for the Lite-On Acquisition. The Acquisition Draw Term Borrowings shall consist of Acquisition Draw Term Loans made simultaneously by the Term Lenders in accordance with their respective Applicable Percentage of the Acquisition Draw Term Facility. The Acquisition Draw Term Commitment of each Acquisition Draw Term Lender shall be permanently and automatically reduced by the aggregate amount of Acquisition Draw Term Loans funded by such Acquisition Draw Term Lender. Any Acquisition Draw Term Commitments not used at the expiration of the Acquisition Draw Term Availability Period shall be automatically cancelled. There shall not be more than three (3) Acquisition Draw Term Borrowings.

(iii) The obligations of each Term Lender hereunder shall be several and not joint. Term Borrowings repaid or prepaid may not be reborrowed. Term Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein; *provided, however*, any Initial Term Borrowing or Acquisition Draw Term Borrowing made on the Closing Date or each Acquisition Draw Term Draw Date, as applicable, shall be made as Base Rate Loans.

(b) *Revolving Credit Borrowings.* Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make loans (each such loan, a “*Revolving Credit Loan*”) to the Borrowers in Dollars or in an Alternative Currency from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender’s Revolving Credit Commitment; *provided* that after giving effect to any Revolving Credit Borrowing, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility, (ii) the Revolving Credit Exposure of any Revolving Credit Lender shall not exceed such Lender’s Revolving Credit Commitment, and (iii) the aggregate Outstanding Amount of all Revolving Credit Loans denominated in Alternative Currencies plus the aggregate Outstanding Amount of all L/C Obligations denominated in Alternative Currencies shall not exceed the Alternative Currency Sublimit. Within the limits of each Revolving Credit Lender’s Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrowers may borrow under this Section 2.01(b),

prepay under Section 2.05, and reborrow under this Section 2.01(b). Revolving Credit Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein.

Section 2.02. Borrowings, Conversions and Continuations of Loans

(a) Each Borrowing, each conversion of Term Loans, Incremental Term Loans or Revolving Credit Loans from one Type to the other, and each continuation of Eurocurrency Rate Loans shall be made upon the Domestic Borrower's irrevocable notice to the Administrative Agent, which may be given by (A) telephone or (B) a Committed Loan Notice; *provided* that any telephonic notice must be confirmed immediately by delivery to the Administrative Agent of a Committed Loan Notice. Each such Committed Loan Notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurocurrency Rate Loans or of any conversion of Eurocurrency Rate Loans to Base Rate Loans, (ii) on the requested date of any Borrowing of Base Rate Loans, and (iii) four Business Days (or five Business Days in the case of a Special Notice Currency) prior to the requested date of any Borrowing or continuation of Eurocurrency Rate Loans denominated in an Alternative Currency. Each Borrowing of, conversion to or continuation of Eurocurrency Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof (or, in connection with any conversion or continuation of a Term Loan or an Incremental Term Loan, if less, the entire principal thereof then outstanding). Except as provided in Sections 2.03(c) and 2.04(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof (or, in connection with any conversion or continuation of a Term Loan or an Incremental Term Loan, if less, the entire principal thereof then outstanding). Each Committed Loan Notice and each telephonic notice shall specify (i) the name of the applicable Borrower, (ii) the applicable Facility and whether such Borrower is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Loans, as the case may be, under such Facility, (iii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iv) the principal amount of Loans to be borrowed, converted or continued, (v) the Type of Loans to be borrowed or to which existing Loans are to be converted, (vi) if applicable, the duration of the Interest Period with respect thereto, and (vii) the currency of the Loans to be borrowed, converted or continued. If the Domestic Borrower fails to specify a currency in a Committed Loan Notice requesting a Borrowing, then the Loans so requested shall be made in Dollars. If the Domestic Borrower fails to specify a Type of Loan in a Committed Loan Notice or if the Domestic Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made as, or converted to, Base Rate Loans; *provided, however*, that in the case of a failure to timely request a continuation of Revolving Credit Loans denominated in an Alternative Currency, such Loans shall be continued as Eurocurrency Rate Loans in their original currency with an Interest Period of one month. No Revolving Credit Loan may be converted into or continued as a Revolving Credit Loan denominated in a different currency, but instead must be repaid in the original currency of such Revolving Credit Loan and reborrowed in the other currency. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurocurrency Rate Loans. If the Domestic Borrower requests a Borrowing of, conversion to, or continuation of Eurocurrency Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. Notwithstanding anything to the contrary herein, a Swingline Loan may not be converted to a Eurocurrency Rate Loan.

(a) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Applicable Percentage under such Facility of the applicable

Loans, whether such Loan is to be denominated in Dollars or an Alternative Currency, and if no timely notice of a conversion or continuation is provided by the Domestic Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation of Loan denominated in a currency other than Dollars, in each case as described in the preceding subsection. In the case of a Revolving Credit Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office for the applicable currency not later than 1:00 p.m. in the case of any Loan denominated in Dollars, and not later than the Applicable Time specified by the Administrative Agent in the case of any Loan in an Alternative Currency, in each case on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the applicable Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of such Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Domestic Borrower; *provided* that if, on the date the Committed Loan Notice with respect to a Revolving Credit Borrowing is given by the Domestic Borrower, there are L/C Borrowings outstanding with respect to the applicable Borrower, then the proceeds of such Revolving Credit Borrowing, *first*, shall be applied to the payment in full of any such L/C Borrowings, and *second*, shall be made available to such Borrower as provided above.

(b) Except as otherwise provided herein, a Eurocurrency Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurocurrency Rate Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Eurocurrency Rate Loans (whether in Dollars or an Alternative Currency) without the consent of the Required Lenders, and the Required Lenders may demand that any or all of the then outstanding Eurocurrency Rate Loans denominated in an Alternative Currency be redenominated into Dollars in the amount of the Dollar Equivalent thereof, on the last day of the then current Interest Period with respect thereto.

(c) The Administrative Agent shall promptly notify the Domestic Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurocurrency Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Domestic Borrower and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(d) After giving effect to all Term Borrowings and Incremental Term Borrowings, all conversions of Term Loans and Incremental Term Loans from one Type to the other, and all continuations of Term Loans and Incremental Term Loans as the same Type, there shall not be more than 6 Interest Periods in effect in respect of the Term Facility and the Incremental Term Facility. After giving effect to all Revolving Credit Borrowings, all conversions of Revolving Credit Loans from one Type to the other, and all continuations of Revolving Credit Loans as the same Type, there shall not be more than 6 Interest Periods in effect in respect of the Revolving Credit Facility.

(e) Notwithstanding anything to the contrary in this Agreement, any Lender may exchange, continue or rollover all or the portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrowers, the Administrative Agent and such Lender.

Section 2.03. *Letters of Credit.*

(a) *The Letter of Credit Commitment.* (i) Subject to the terms and conditions set forth herein, in addition to the Loans provided for in Section 2.01 (A) Bank of America, in its capacity as an L/C Issuer agrees, in reliance upon the agreements of the Revolving Credit Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit denominated in Dollars or, in its capacity as Alternative Currency L/C Issuer, in an Alternative Currency applicable to such L/C Issuer for the account of any Borrower or Loan Party, and to amend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; (B) each other L/C Issuer agrees, in reliance upon the agreements of the Revolving Credit Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit denominated in Dollars for the account of any Borrower or Loan Party, and to amend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; and (C) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued for the account of the Borrowers or any Loan Party and any drawings thereunder; *provided* that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (w) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility, (x) the Revolving Credit Exposure of any Revolving Credit Lender shall not exceed such Lender's Commitment, (y) the aggregate Outstanding Amount of all Revolving Credit Loans denominated in Alternative Currencies plus the aggregate Outstanding Amount of all L/C Obligations denominated in Alternative Currencies shall not exceed the Alternative Currency Sublimit, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by a Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by such Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrowers' ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrowers may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(i) No L/C Issuer shall issue any Letter of Credit, if:

(A) the expiry date of the requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Revolving Lenders have approved such expiry date; or

(B) the expiry date of the requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Revolving Credit Lenders have approved such expiry date.

(ii) No L/C Issuer shall be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such L/C Issuer from issuing the Letter of Credit, or any Law applicable to such L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with

jurisdiction over such L/C Issuer shall prohibit, or request that such L/C Issuer refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon such L/C Issuer with respect to the Letter of Credit any restriction, reserve or capital requirement (for which such L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such L/C Issuer in good faith deems material to it;

(B) the issuance of the Letter of Credit would violate one or more policies of such L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and such L/C Issuer, the Letter of Credit is in an initial stated amount less than \$100,000, in the case of a commercial Letter of Credit, or \$500,000, in the case of a standby Letter of Credit;

(D) except as agreed by the Administrative Agent and the Alternative Currency L/C Issuer, the Letter of Credit is to be denominated in a currency other than Dollars or an Alternative Currency;

(E) such L/C issuer does not as of the issuance date of such requested Letter of Credit issue letters of credit in the requested currency;

(F) any Revolving Credit Lender is at that time a Defaulting Lender, unless such L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to such L/C Issuer (in its sole discretion) with the Domestic Borrower or such Revolving Credit Lender to eliminate such L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.16(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which such L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion;

(G) the Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder; or

(H) such L/C Issuer does not as of the issuance date of the requested Letter of Credit issue Letters of Credit in the requested currency.

(iii) No L/C Issuer shall amend any Letter of Credit if such L/C Issuer would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

(iv) No L/C Issuer shall be under any obligation to amend any Letter of Credit if (A) such L/C Issuer would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(v) Each L/C Issuer shall act on behalf of the Revolving Credit Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and each L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by such L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included such L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to such L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit. (i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the applicable Borrower delivered to an L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the applicable Borrower. Such Letter of Credit Application may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by the applicable L/C Issuer, by personal delivery or by any other means acceptable to such L/C Issuer. Such Letter of Credit Application must be received by the applicable L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least two Business Days prior to the proposed issuance date or date of amendment, as the case may be, of any Letter of Credit denominated in Dollars, and not later than 12:00 noon at least ten Business Days prior to the proposed issuance date or date of amendment, as the case may be, of any Letter of Credit denominated in an Alternative Currency (or in each case such later date and time as the Administrative Agent and the applicable L/C Issuer may agree in a particular instance in their sole discretion). In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount and currency thereof and the absence of specification of currency shall be deemed a request for a Letter of Credit denominated in Dollars; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as the L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); (3) the nature of the proposed amendment; and (4) such other matters as the applicable L/C Issuer may require. Additionally, the applicable Borrower shall furnish to the applicable L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as such L/C Issuer or the Administrative Agent may require.

(i) Promptly after receipt of any Letter of Credit Application, the applicable L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the applicable Borrower and, if not, such L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the applicable L/C Issuer has received written notice from any Revolving Credit Lender, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms

and conditions hereof, such L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the applicable Borrower (or the applicable Loan Party) or enter into the applicable amendment, as the case may be, in each case in accordance with such L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from such L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage *times* the amount of such Letter of Credit.

(ii) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable L/C Issuer will also deliver to the applicable Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) *Drawings and Reimbursements; Funding of Participations.* (i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the applicable L/C Issuer shall promptly notify the applicable Borrower and the Administrative Agent thereof. In the case of a Letter of Credit denominated in an Alternative Currency, the applicable Borrower shall reimburse the Alternative Currency L/C Issuer in such Alternative Currency, unless (A) the Alternative Currency L/C Issuer (at its option) shall have specified in such notice that it will require reimbursement in Dollars, or (B) in the absence of any such requirement for reimbursement in Dollars, the applicable Borrower shall have notified such L/C Issuer promptly following receipt of the notice of drawing that the applicable Borrower will reimburse such L/C Issuer in Dollars. In the case of any such reimbursement in Dollars of a drawing under a Letter of Credit denominated in an Alternative Currency, the Alternative Currency L/C Issuer shall notify the applicable Borrower of the Dollar Equivalent of the amount of the drawing promptly following the determination thereof. Not later than 11:00 a.m. on the date of any payment by the applicable L/C Issuer under a Letter of Credit to be reimbursed in Dollars, or the Applicable Time on the date of any payment by the Alternative Currency L/C Issuer under a Letter of Credit to be reimbursed in an Alternative Currency (each such date, an "*Honor Date*"), the applicable Borrower shall reimburse the applicable L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing and in the applicable currency. In the event that (A) a drawing denominated in an Alternative Currency is to be reimbursed in Dollars pursuant to the second sentence in this Section 2.03(c)(i) and (B) the Dollar amount paid by the applicable Borrower, whether on or after the Honor Date, shall not be adequate on the date of that payment to purchase in accordance with normal banking procedures a sum denominated in the Alternative Currency equal to the drawing, such Borrower agrees, as a separate and independent obligation, to indemnify the Alternative Currency L/C Issuer for the loss resulting from its inability on that date to purchase the Alternative Currency in the full amount of the drawing. If the applicable Borrower fails to so reimburse such L/C Issuer by such time, the Administrative Agent shall promptly notify each Revolving Credit Lender of the Honor Date, the amount of the unreimbursed drawing (expressed in Dollars in the amount of the Dollar Equivalent thereof in the case of a Letter of Credit denominated in an Alternative Currency) (the "*Unreimbursed Amount*"), and the amount of such Revolving Credit Lender's Applicable Revolving Credit Percentage thereof. In such event, the applicable Borrower shall be deemed to have requested a Revolving Credit Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Revolving Credit Commitments and the

conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by an L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; *provided* that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(i) Each Revolving Credit Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable L/C Issuer, in Dollars, at the Administrative Agent's Office for Dollar denominated payments in an amount equal to its Applicable Revolving Credit Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the applicable Borrower in such amount. The Administrative Agent shall remit the funds so received to the applicable L/C Issuer in Dollars.

(ii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Credit Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Domestic Borrower shall be deemed to have incurred from the applicable L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Credit Lender's payment to the Administrative Agent for the account of the applicable L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iii) Until each Revolving Credit Lender funds its Revolving Credit Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the applicable L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Applicable Revolving Credit Percentage of such amount shall be solely for the account of such L/C Issuer.

(iv) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or L/C Advances to reimburse an L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against any L/C Issuer, any Borrower, any Subsidiary or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; *provided* that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the applicable Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the applicable Borrower to reimburse the applicable L/C Issuer for the amount of any payment made by such L/C Issuer under any Letter of Credit, together with interest as provided herein.

(v) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the applicable L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, the applicable L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such L/C Issuer at a rate per annum equal to the applicable Overnight Rate from time to time in effect, plus any administrative, processing or similar fees customarily charged by such L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Credit Loan included in the relevant Revolving Credit Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the applicable L/C Issuer submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) *Repayment of Participations.* (i) At any time after the applicable L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Credit Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of such L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the applicable Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by the Administrative Agent.

(i) If any payment received by the Administrative Agent for the account of an L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 11.05 (including pursuant to any settlement entered into by such L/C Issuer in its discretion), each Revolving Credit Lender shall pay to the Administrative Agent for the account of such L/C Issuer its Applicable Revolving Credit Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the applicable Overnight Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) *Obligations Absolute.* The obligation of the applicable Borrower to reimburse the applicable L/C Issuer in each case for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that any Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may

be acting), any L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, endorsement, certificate or other document presented under or in connection with such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) waiver by any L/C Issuer of any requirement that exists for such L/C Issuer's protection and not the protection of the applicable Borrower or any waiver by such L/C Issuer which does not in fact materially prejudice the applicable Borrower;

(v) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(vi) any payment made by the applicable L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under, such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(vii) any payment by the applicable L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the applicable L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;

(viii) any adverse change in the relevant exchange rates or in the availability of relevant Alternative Currency to any Borrower or any Subsidiary or in the relevant currency markets generally; or

(ix) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Domestic Borrower or any Subsidiary.

The applicable Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the applicable Borrower's instructions or other irregularity, the applicable Borrower will immediately notify the applicable L/C Issuer. The applicable Borrower shall be conclusively deemed to have waived any such claim against each L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) *Role of L/C Issuer.* Each Lender and each Borrower agree that, in paying any drawing under a Letter of Credit, no L/C Issuer shall have any responsibility to obtain any document (other than

any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of any L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Credit Lenders or the Required Revolving Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrowers hereby assume all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; *provided* that this assumption is not intended to, and shall not, preclude the applicable Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. Neither any L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any L/C Issuer shall be liable or responsible for any of the matters described in Section 2.03(e); *provided, however*, that anything in such clauses to the contrary notwithstanding, the applicable Borrower may have a claim against the applicable L/C Issuer, and the applicable L/C Issuer may be liable to the applicable Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the applicable Borrower which the applicable Borrower proves, as determined by a final nonappealable judgment of a court of competent jurisdiction, were caused by the applicable L/C Issuer's willful misconduct or gross negligence or the applicable L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, an L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and no L/C Issuer shall be responsible for the validity or sufficiency of any instrument transferring, endorsing or assigning or purporting to transfer, endorse 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. Each L/C Issuer may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("*SWIFT*") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(g) *Applicability of ISP and UCP; Limitation of Liability.* Unless otherwise expressly agreed by the applicable L/C Issuer and the applicable Borrower when a Letter of Credit is issued, (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the UCP shall apply to each commercial Letter of Credit. Notwithstanding the foregoing, no L/C Issuer shall be responsible to any Borrower for, and no L/C Issuer's rights and remedies against the applicable Borrower shall be impaired by, any action or inaction of any L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where such L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade – International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(h) *Letter of Credit Fees.* The applicable Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance, subject to Section 2.16, with its Applicable Revolving Credit Percentage a Letter of Credit fee (the “*Letter of Credit Fee*”) for each Letter of Credit equal to the Applicable Rate times the Dollar Equivalent of the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. Letter of Credit Fees shall be (i) due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each standby Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Revolving Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(i) *Fronting Fee and Documentary and Processing Charges Payable to L/C Issuers.* The applicable Borrower shall pay directly to the applicable L/C Issuer for its own account, in Dollars, a fronting fee (i) with respect to each commercial Letter of Credit, at the rate specified in the Fee Letter, computed on the Dollar Equivalent of the amount of such Letter of Credit, and payable upon the issuance thereof, (ii) with respect to any amendment of a commercial Letter of Credit increasing the amount of such Letter of Credit, at a rate separately agreed between the applicable Borrower and such L/C Issuer, computed on the Dollar Equivalent of the amount of such increase, and payable upon the effectiveness of such amendment, and (iii) with respect to each standby Letter of Credit, at the rate per annum specified in the Fee Letter, computed on the Dollar Equivalent of the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth Business Day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. In addition, the applicable Borrower shall pay directly to the applicable L/C Issuer for its own account, in Dollars, the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(j) *Conflict with Issuer Documents.* In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(k) *Letters of Credit Issued for Subsidiaries.* Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the applicable Borrower shall be obligated to reimburse the applicable L/C Issuer hereunder for any and all drawings under such Letter of Credit. Each Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the applicable Borrower, and that the applicable Borrower’s business derives substantial benefits from the businesses of such Subsidiaries.

(l) *L/C Issuer Reports to the Administrative Agent.* Unless otherwise agreed by the Administrative Agent, each L/C Issuer shall, in addition to its notification obligations set forth elsewhere in this Section 2.03, provide the Administrative Agent a Letter of Credit Report, as set forth below:

(i) reasonably prior to the time that such L/C Issuer issues, amends, renews, increases or extends a Letter of Credit, the date of such issuance, amendment, renewal, increase or extension and the stated amount of the applicable Letters of Credit after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed);

(ii) on each Business Day on which such L/C Issuer makes a payment pursuant to a Letter of Credit, the date and amount of such payment;

(iii) on any Business Day on which a Borrower fails to reimburse a payment made pursuant to a Letter of Credit required to be reimbursed to such L/C Issuer on such day, the date of such failure and the amount of such payment;

(iv) on any other Business Day, such other information as the Administrative Agent shall reasonably request as to the Letters of Credit issued by such L/C Issuer; and

(v) for so long as any Letter of Credit issued by an L/C Issuer is outstanding, such L/C Issuer shall deliver to the Administrative Agent (A) on the last Business Day of each calendar month, (B) at all other times a Letter of Credit Report is required to be delivered pursuant to this Agreement, and (C) on each date that (1) an L/C Credit Extension occurs or (2) there is any expiration, cancellation and/or disbursement, in each case, with respect to any such Letter of Credit, a Letter of Credit Report appropriately completed with the information for every outstanding Letter of Credit issued by such L/C Issuer.

(m) *Additional L/C Issuers.* Any Lender hereunder may become an L/C Issuer upon receipt by the Administrative Agent of a fully executed Notice of Additional L/C Issuer which shall be signed by the Borrowers, the Administrative Agent and each L/C Issuer. Such new L/C Issuer shall provide its L/C Commitment in such Notice of Additional L/C Issuer and upon the receipt by the Administrative Agent of the fully executed Notice of Additional L/C Issuer, the defined term L/C Commitment shall be deemed amended to incorporate the L/C Commitment of such new L/C Issuer.

Section 2.04. Swingline Loans.

(a) *The Swingline.* Subject to the terms and conditions set forth herein, the Swingline Lender, in reliance upon the agreements of the other Lenders set forth in this Section 2.04, may in its sole discretion make loans in Dollars (each such loan, a “*Swingline Loan*”) to the Borrowers from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Swingline Sublimit, notwithstanding the fact that such Swingline Loans, when aggregated with the Applicable Revolving Credit Percentage of the Outstanding Amount of Revolving Credit Loans and L/C Obligations of the Lender acting as Swingline Lender, may exceed the amount of such Lender’s Revolving Credit Commitment; *provided, however,* that (x) after giving effect to any Swingline Loan, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit

Facility at such time, (ii) the Revolving Credit Exposure of any Revolving Credit Lender shall not exceed such Lender's Revolving Credit Commitment and (iii) the aggregate amount of all Swingline Loans outstanding shall not exceed the Swingline Commitment of the Swingline Lender, (y) the applicable Borrower shall not use the proceeds of any Swingline Loan to refinance any outstanding Swingline Loan, and (z) the Swingline Lender shall not be under any obligation to make any Swingline Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such Credit Extension may have, Fronting Exposure. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrowers may borrow under this Section 2.04, prepay under Section 2.05, and reborrow under this Section 2.04. Each Swingline Loan shall be a Base Rate Loan. Immediately upon the making of a Swingline Loan, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swingline Lender a risk participation in such Swingline Loan in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage times the amount of such Swingline Loan.

(b) *Borrowing Procedures.* Each Swingline Borrowing shall be made upon the applicable Borrower's irrevocable notice to the Swingline Lender and the Administrative Agent, which may be given by: (A) telephone or (B) a Swingline Loan Notice; *provided* that any telephonic notice must be confirmed immediately by delivery to the Swingline Lender and the Administrative Agent of a Swingline Loan Notice. Each such Swingline Loan Notice must be received by the Swingline Lender and the Administrative Agent not later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$100,000, and (ii) the requested borrowing date (which shall be a Business Day). Promptly after receipt by the Swingline Lender of any Swingline Loan Notice, the Swingline Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Swingline Loan Notice and, if not, the Swingline Lender will notify the Administrative Agent (by telephone or in writing) of the contents thereof. Unless the Swingline Lender has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any Revolving Credit Lender) prior to 2:00 p.m. on the date of the proposed Swingline Borrowing (A) directing the Swingline Lender not to make such Swingline Loan as a result of the limitations set forth in the first proviso to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swingline Lender will, not later than 3:00 p.m. on the borrowing date specified in such Swingline Loan Notice, make the amount of its Swingline Loan available to the applicable Borrower at its office by crediting the account of the applicable Borrower on the books of the Swingline Lender in immediately available funds.

(c) *Refinancing of Swingline Loans.* (i) The Swingline Lender at any time in its sole discretion may request, on behalf of the applicable Borrower (which hereby irrevocably authorizes the Swingline Lender to so request on its behalf), that each Revolving Credit Lender make a Base Rate Loan in an amount equal to such Lender's Applicable Revolving Credit Percentage of the amount of Swingline Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Revolving Credit Facility and the conditions set forth in Section 4.02. The Swingline Lender shall furnish the applicable Borrower with a copy of the applicable Committed Loan Notice promptly after delivering such notice to the Administrative Agent. Each Revolving Credit Lender shall make an amount equal to its Applicable Revolving Credit Percentage

of the amount specified in such Committed Loan Notice available to the Administrative Agent in immediately available funds (and the Administrative Agent may apply Cash Collateral available with respect to the applicable Swingline Loan) for the account of the Swingline Lender at the Administrative Agent's Office for Dollar-denominated payments not later than 1:00 p.m. on the day specified in such Committed Loan Notice, whereupon, subject to Section 2.04(c)(ii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the applicable Borrower in such amount. The Administrative Agent shall remit the funds so received to the Swingline Lender.

(i) If for any reason any Swingline Loan cannot be refinanced by such a Revolving Credit Borrowing in accordance with Section 2.04(c)(i), the request for Base Rate Loans submitted by the Swingline Lender as set forth herein shall be deemed to be a request by the Swingline Lender that each of the Revolving Credit Lenders fund its risk participation in the relevant Swingline Loan and each Revolving Credit Lender's payment to the Administrative Agent for the account of the Swingline Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(ii) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the Swingline Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swingline Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swingline Lender at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the Swingline Lender in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Swingline Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Credit Loan included in the relevant Revolving Credit Borrowing or funded participation in the relevant Swingline Loan, as the case may be. A certificate of the Swingline Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iii) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or to purchase and fund risk participations in Swingline Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swingline Lender, the applicable Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; *provided* that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02. No such funding of risk participations shall relieve or otherwise impair the obligation of the applicable Borrower to repay Swingline Loans, together with interest as provided herein.

(d) *Repayment of Participations.* (i) At any time after any Revolving Credit Lender has purchased and funded a risk participation in a Swingline Loan, if the Swingline Lender receives any

payment on account of such Swingline Loan, the Swingline Lender will distribute to such Revolving Credit Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by the Swingline Lender.

(i) If any payment received by the Swingline Lender in respect of principal or interest on any Swingline Loan is required to be returned by the Swingline Lender under any of the circumstances described in Section 11.05 (including pursuant to any settlement entered into by the Swingline Lender in its discretion), each Revolving Credit Lender shall pay to the Swingline Lender its Applicable Revolving Credit Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Administrative Agent will make such demand upon the request of the Swingline Lender. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) *Interest for Account of Swingline Lender.* The Swingline Lender shall be responsible for invoicing the applicable Borrower for interest on the Swingline Loans. Until each Revolving Credit Lender funds its Base Rate Loan or risk participation pursuant to this Section 2.04 to refinance such Revolving Credit Lender's Applicable Revolving Credit Percentage of any Swingline Loan, interest in respect of such Applicable Revolving Credit Percentage shall be solely for the account of the Swingline Lender.

(f) *Payments Directly to Swingline Lender.* The applicable Borrower shall make all payments of principal and interest in respect of the Swingline Loans directly to the Swingline Lender.

Section 2.05. Prepayments.

(a) *Optional.* (i) Each Borrower may, upon notice to the Administrative Agent pursuant to delivery to the Administrative Agent of a Notice of Loan Prepayment, at any time or from time to time voluntarily prepay Term Loans, Incremental Term Loans and Revolving Credit Loans in whole or in part without premium or penalty; *provided* that, unless otherwise agreed by the Administrative Agent, (i) such notice must be received by the Administrative Agent not later than 11:00 a.m. (A) three Business Days prior to any date of prepayment of Eurocurrency Rate Loans denominated in Dollars, (B) on the date of prepayment of Base Rate Loans, and (C) four Business Days (or five, in the case of prepayment of Loans denominated in Special Notice Currencies) prior to any date of prepayment of Eurocurrency Rate Loans denominated in an Alternative Currency; (ii) any prepayment of Eurocurrency Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof; and (iii) any prepayment of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof; or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment, the Type(s) of Loans to be prepaid, the currency in which such Loan(s) to be prepaid is(are) denominated and, if Eurocurrency Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage in respect of the relevant Facility). If such notice is given by a Borrower, the applicable Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any

prepayment of principal shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Each prepayment of the outstanding Term Loans or Incremental Term Loans pursuant to this Section 2.05(a) shall be applied to the principal repayment installments thereof as directed by a Borrower in such notice, or if not so directed by the applicable Borrower, on a pro-rata basis. Subject to Section 2.16, each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Applicable Percentages in respect of each of the relevant Facilities.

(i) The applicable Borrower may, upon notice to the Swingline Lender pursuant to delivery to the Swingline Lender of a Notice of Loan Prepayment (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swingline Loans in whole or in part without premium or penalty; *provided* that, unless otherwise agreed by the Swingline Lender, (A) such notice must be received by the Swingline Lender and the Administrative Agent not later than 1:00 p.m. on the date of the prepayment, and (B) any such prepayment shall be in a minimum principal amount of \$100,000 or a whole multiple of \$100,000 in excess thereof (or, if less, the entire principal thereof then outstanding). Each such notice shall specify the date and amount of such prepayment. If such notice is given by a Borrower, the applicable Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of principal shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05.

(b) *Mandatory.*

(i) *Dispositions and Involuntary Dispositions.* The Borrowers (as to the Foreign Borrower, limited to prepayment of Foreign Obligations, and limited to Net Cash Proceeds received by the Foreign Borrower or any of its Subsidiaries from any Disposition referred to below) shall prepay the Loans and/or Cash Collateralize the L/C Obligations as hereinafter provided in an aggregate amount equal to 100% of the Net Cash Proceeds received by any Loan Party or any Subsidiary from all Dispositions (other than Dispositions permitted pursuant to Section 7.05(b), (c), (d), (e) and (h)) and Involuntary Dispositions, as to each receipt of any Net Cash Proceeds, within five (5) Business Days of the later of the date of the related Disposition and the date of such receipt; *provided, however*, (A) that so long as no Default shall have occurred and be continuing, such Net Cash Proceeds shall not be required to be so applied (x) until the aggregate amount of the Net Cash Proceeds derived from any such Disposition or Involuntary Disposition in any fiscal year of the Domestic Borrower is equal to or greater than \$1,000,000 and (y) at the election of the Domestic Borrower (as notified by the Domestic Borrower to the Administrative Agent on or prior to the date of such Disposition or Involuntary Disposition) to the extent such Loan Party or such Subsidiary reinvests all or any portion of such Net Cash Proceeds in like assets (but specifically excluding current assets as classified by GAAP) within one hundred eighty (180) days after the receipt of such Net Cash Proceeds; *provided* that if such Net Cash Proceeds shall have not been so reinvested they shall be immediately applied to prepay the Loans and/or Cash Collateralize the L/C Obligations and (B) that for Dispositions permitted pursuant to Section 7.05(f), (g) and (i), the Borrowers (as to the Foreign Borrower, limited to prepayment of Foreign Obligations, and limited to Net Cash Proceeds received by the Foreign Borrower or any of its Subsidiaries from any such Disposition) shall prepay the Loans

and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to 50% of the Net Cash Proceeds received by any Loan Party or any Subsidiary from any such Disposition, within five (5) Business Days of the later of the date of the related Disposition and the date of such receipt, provided that any such Net Cash Proceeds shall be subject to clauses (A)(x) and (A)(y) of this sentence.

(ii) *Extraordinary Receipts.* Immediately upon receipt by any Loan Party or any Subsidiary of any Extraordinary Receipt received by or paid to or for the account of any Loan Party or any of its Subsidiaries, and not otherwise included in clause (ii), (iii) or (iv) of this Section, the Borrowers (as to the Foreign Borrower, limited to prepayment of Foreign Obligations, and limited to Extraordinary Receipts received by the Foreign Borrower or any of its Subsidiaries) shall prepay the Loans and/or Cash Collateralize the L/C Obligations as hereinafter provided in an aggregate principal amount equal to 100% of all Net Cash Proceeds received therefrom.

(iii) *Application of Payments.* Each prepayment of Loans pursuant to the foregoing provisions of Section 2.05(b) (i)-(ii) shall be applied, first, to the principal repayment installments of the Term Loans and the Incremental Term Loans on a pro-rata basis for all such principal repayment installments but specifically excluding the final principal installment on the Maturity Date and, second, to the Revolving Credit Facility in the manner set forth in clause (v) of Section 2.05(b) (without reduction of any Revolving Credit Commitment hereunder). Subject to Section 2.16, such prepayments shall be paid to the Lenders in accordance with their respective Applicable Percentages in respect of the relevant Facilities.

(iv) *Revolving Credit Outstandings.* If for any reason the Total Revolving Credit Outstandings at any time exceed the Revolving Credit Facility then in effect, the applicable Borrower shall immediately upon notice from the Administrative Agent prepay Revolving Credit Loans, Swingline Loans and L/C Borrowings and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess.

(v) *Application of Other Payments - Revolving Credit Facility.* Except as otherwise provided in Section 2.16, prepayments of the Revolving Credit Facility made pursuant to this Section 2.05(b), first, shall be applied ratably to the L/C Borrowings and the Swingline Loans, second, shall be applied to the outstanding Revolving Credit Loans, and, third, shall be used to Cash Collateralize the remaining L/C Obligations. Upon the drawing of any Letter of Credit that has been Cash Collateralized, the funds held as Cash Collateral shall be applied (without any further action by or notice to or from a Borrower or any other Loan Party or any Defaulting Lender that has provided Cash Collateral) to reimburse the applicable L/C Issuers or the Revolving Credit Lenders, as applicable.

(vi) *Alternative Currencies.* If the Administrative Agent notifies the Borrowers at any time that the Outstanding Amount of all Loans and L/C Obligations denominated in Alternative Currencies at such time exceeds an amount equal to 105% of the Alternative Currency Sublimit then in effect, then, within two Business Days after receipt of such notice, the Borrowers shall prepay Loans and/or Cash Collateralize the L/C Obligations in an aggregate

amount sufficient to reduce such Outstanding Amount as of such date of payment to an amount not to exceed 100% of the Alternative Currency Sublimit then in effect.

(vii) *Acquisition Draw Term Loans.* If for any reason the Lite-On Acquisition Date has not occurred on or prior to December 31, 2020, the Borrowers shall prepay the Acquisition Draw Term Loans in full on January 1, 2021. Subject to Section 2.16, such prepayments shall be paid to the Lenders in accordance with their respective Applicable Percentages in respect of the Acquisition Draw Term Facility.

Within the parameters of the applications set forth above, prepayments pursuant to this Section 2.05(b) shall be applied first to Base Rate Loans and then to Eurocurrency Rate Loans in direct order of Interest Period maturities. All prepayments under this Section 2.05(b) shall be subject to Section 3.05, but otherwise without premium or penalty, and shall be accompanied by interest on the principal amount prepaid through the date of prepayment.

Section 2.06. Termination or Reduction of Commitments.

(a) *Optional.* The Domestic Borrower may, upon notice to the Administrative Agent, terminate the Acquisition Draw Term Commitment (prior to any Borrowing thereunder), the Revolving Credit Facility, the Letter of Credit Sublimit, the Swingline Sublimit or the Alternative Currency Sublimit, or from time to time permanently reduce the Revolving Credit Facility, the Letter of Credit Sublimit, the Swingline Sublimit or the Alternative Currency Sublimit; *provided* that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. five (5) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$10,000,000 or any whole multiple of \$1,000,000 in excess thereof and (iii) the Domestic Borrower shall not terminate or reduce (A) the Revolving Credit Facility if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Credit Outstandings would exceed the Revolving Credit Facility, (B) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Sublimit, (C) the Swingline Sublimit if, after giving effect thereto and to any concurrent prepayments hereunder, the Outstanding Amount of Swingline Loans would exceed the Swingline Sublimit or (D) the Alternative Currency Sublimit if, after giving effect thereto and to any concurrent prepayments hereunder, the Outstanding Amount of Revolving Loans denominated in an Alternative Currency would exceed the Alternative Currency Sublimit.

(b) *Mandatory.* The aggregate Acquisition Draw Term Commitments shall be automatically and permanently reduced to zero on the expiration of the Acquisition Draw Term Availability Period.

(c) *Application of Commitment Reductions; Payment of Fees.* The Administrative Agent will promptly notify the Lenders of any termination or reduction of the Acquisition Draw Term Commitment, the Letter of Credit Sublimit, Swingline Sublimit, the Alternative Currency Sublimit or the Revolving Credit Facility under this Section 2.06. Upon any reduction of the Revolving Credit Facility, the Revolving Credit Commitment of each Revolving Credit Lender shall be reduced by such Lender's Applicable Revolving Credit Percentage of such reduction amount. All fees in respect of the Revolving Credit Facility or the Acquisition Draw Term Facility accrued until the effective date of any termination

of the Revolving Credit Facility or the Acquisition Draw Term Facility, as applicable, shall be paid on the effective date of such termination.

Section 2.07. Repayment of Loans.

(a) *Term Loans.* The Domestic Borrower shall repay to the Term Lenders on September 30, 2020, an amount equal to 1.25% of the original principal amount of the Initial Term Loan, and thereafter, on the last day of each March, June, September and December prior to the Maturity Date, an amount equal to 1.25% of the original principal amount of the Term Loans (which for the avoidance of doubt shall be the sum of (A) the original principal amount of the Acquisition Draw Term Loan measured as of the end of the Acquisition Draw Term Availability Period and (B) the original principal amount of the Initial Term Loan) which amounts shall be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.05, unless accelerated sooner pursuant to Section 8.02; *provided, however*, that (i) the final principal repayment installment of the Term Loans shall be repaid on the Maturity Date for the Term Facility and in any event shall be in an amount equal to the aggregate principal amount of all Term Loans outstanding on such date and (ii) (A) if any principal repayment installment to be made by the Domestic Borrower (other than principal repayment installments on Eurocurrency Rate Loans) shall come due on a day other than a Business Day, such principal repayment installment shall be due on the next succeeding Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be and (B) if any principal repayment installment to be made by a Borrower on a Eurocurrency Rate Loan shall come due on a day other than a Business Day, such principal repayment installment shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such principal repayment installment into another calendar month, in which event such principal repayment installment shall be due on the immediately preceding Business Day.

(b) *Revolving Credit Loans.* Each Borrower shall repay to the Revolving Credit Lenders on the Maturity Date for the Revolving Credit Facility the aggregate principal amount of all Revolving Credit Loans outstanding on such date.

(c) *Swingline Loans.* Each Borrower shall repay each Swingline Loan on the earlier to occur of (i) the date ten (10) Business Days after such Loan is made and (ii) the Maturity Date for the Revolving Facility.

(d) *Incremental Term Loans.* Each Borrower shall repay to the Administrative Agent for the ratable account of the applicable Incremental Term Lenders the aggregate principal amount of each Incremental Term Loan outstanding on the dates in the respective amounts set forth in the applicable Incremental Term Assumption Agreement, with a final principal payment of all outstanding amounts on the applicable Maturity Date for such Incremental Term Loan.

Section 2.08. Interest

(a) Subject to the provisions of subsection (b) below, (i) each Eurocurrency Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurocurrency Rate for such Interest Period *plus* the Applicable Rate for such Facility; (ii) each Base Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate *plus* the Applicable Rate for such Facility; and (iii) each Swingline Loan shall bear interest on

the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate *plus* the Applicable Rate for the Revolving Credit Facility. To the extent that any calculation of interest or any fee required to be paid under this Agreement shall be based on (or result in) a calculation that is less than zero, such calculation shall be deemed zero for purposes of this Agreement.

(a) (i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(i) If any amount (other than principal of any Loan) payable by any Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) Upon the request of the Required Lenders, while any Event of Default exists (including a payment default), all outstanding Obligations (including Letter of Credit Fees) may accrue at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by Applicable Laws.

(iii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(b) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

Section 2.09. Fees

. In addition to certain fees described in subsections (h) and (i) of Section 2.03:

(a) *Commitment Fee.* The Domestic Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage, a commitment fee in Dollars equal to the Applicable Rate times the actual daily amount by which the Revolving Credit Facility exceeds the sum of (i) the Outstanding Amount of Revolving Credit Loans and (ii) the Outstanding Amount of L/C Obligations subject to adjustment as provided in Section 2.16. For the avoidance of doubt, the Outstanding Amount of Swingline Loans shall not be counted toward or considered usage of the Revolving Credit Commitments for purposes of determining the commitment fee. The commitment fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period for the Revolving Credit Facility. The commitment fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be

computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(b) *Acquisition Draw Term Loan Commitment Fee.* Until the termination or expiration of the Acquisition Draw Term Availability Period, the Domestic Borrower shall pay to the Administrative Agent for the account of each Term Lender in accordance with its Applicable Percentage of the Acquisition Draw Term Facility, a commitment fee in Dollars equal to the Applicable Rate times the actual daily amount by which the Acquisition Draw Term Facility exceeds the Outstanding Amount of Acquisition Draw Term Loans. The commitment fee shall accrue at all times during the Acquisition Draw Term Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable monthly in arrears on the last Business Day of each month during the Acquisition Draw Term Availability Period, and on the last day of the Acquisition Draw Term Availability Period. The commitment fee shall be calculated monthly in arrears, and if there is any change in the Applicable Rate during any month the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such month that such Applicable Rate was in effect.

(c) *Other Fees.* (i) The Domestic Borrower shall pay to the Arrangers and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letters. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(ii) The Domestic Borrower shall pay to the Lenders such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

Section 2.10. Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate

(a) All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurocurrency Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year) or, in the case of interest in respect of Revolving Credit Loans denominated in Alternative Currencies as to which market practice differs from the foregoing, in accordance with such market practice. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; *provided* that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) If, as a result of any restatement of or other adjustment to the financial statements of the Domestic Borrower or for any other reason, the Domestic Borrower or the Lenders determine that (i) the Consolidated Leverage Ratio as calculated by the Domestic Borrower as of any applicable date was inaccurate and (ii) a proper calculation of the Consolidated Leverage Ratio would have resulted in higher pricing for such period, each Borrower shall immediately and retroactively be obligated to pay to the

Administrative Agent for the account of the applicable Lenders or the applicable L/C Issuer, as the case may be, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to any Borrower under the Bankruptcy Code of the United States, automatically and without further action by the Administrative Agent, any Lender or any L/C Issuer), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This paragraph shall not limit the rights of the Administrative Agent, any Lender or any L/C Issuer, as the case may be, under Section 2.03(c)(iii), Section 2.03(h) or Section 2.08(b) or under Article VIII. Each Borrower's obligations under this paragraph shall survive the termination of the Aggregate Commitments and the repayment of all other Obligations hereunder.

Section 2.11. Evidence of Debt

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, such Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount, currency and maturity of its Loans and payments with respect thereto.

(a) In addition to the accounts and records referred to in subsection (a) above, each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swingline Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

Section 2.12. Payments Generally; Administrative Agent's Clawback.

(a) *General.* All payments to be made by the Borrowers shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein and except with respect to principal of and interest on Loans denominated in an Alternative Currency, all payments by the Borrowers hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in Same Day Funds not later than 2:00 p.m. on the date specified herein. Except as otherwise expressly provided herein, all payments by the Borrowers hereunder with respect to principal and interest on Loans denominated in an Alternative Currency shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office in such Alternative Currency and in Same Day Funds not later than the Applicable Time specified by the Administrative Agent on the dates specified herein. Without

limiting the generality of the foregoing, the Administrative Agent may require that any payments due under this Agreement be made in the United States. If, for any reason, any Borrower is prohibited by any Law from making any required payment hereunder in an Alternative Currency, such Borrower shall make such payment in Dollars in the Dollar Equivalent of the Alternative Currency payment amount. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage in respect of the relevant Facility (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent (i) after 2:00 p.m., in the case of payments in Dollars, or (ii) after the Applicable Time specified by the Administrative Agent in the case of payments in an Alternative Currency, shall in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. Subject to Section 2.07(a) and as otherwise specifically provided for in this Agreement, if any payment to be made by any Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) *Funding by Lenders; Presumption by Administrative Agent.* Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurocurrency Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the applicable Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to such Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the Overnight Rate, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by such Borrower, the interest rate applicable to Base Rate Loans or in the case of Alternative Currencies in accordance with such market practice, in each case, as applicable. If a Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to such Borrower the amount of such interest paid by such Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by a Borrower shall be without prejudice to any claim such Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(i) *Payments by Borrowers; Presumptions by Administrative Agent.* Unless the Administrative Agent shall have received notice from a Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or any L/C Issuer hereunder that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders or the applicable L/C Issuer,

as the case may be, the amount due. In such event, if such Borrower has not in fact made such payment, then each of the Appropriate Lenders or the applicable L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such L/C Issuer, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the Overnight Rate.

A notice of the Administrative Agent to any Lender or any Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) *Failure to Satisfy Conditions Precedent.* If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to any Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) *Obligations of Lenders Several.* The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and Swingline Loans and to make payments pursuant to Section 11.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 11.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 11.04(c).

(e) *Funding Source.* Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

Section 2.13. Sharing of Payments by Lenders

. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of (a) Obligations in respect of any of the Facilities due and payable to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations due and payable to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time obtained by all the Lenders at such time or (b) Obligations in respect of any of the Facilities owing (but not due and payable) to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations owing (but not due and payable) to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time obtained by all of the Lenders at such time, then, in each case under clauses (a) and (b) above, the Lender receiving such greater proportion shall (A) notify the Administrative Agent of such fact, and (B) purchase (for cash at face value) participations in

the Loans and sub-participations in L/C Obligations and Swingline Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of Obligations in respect of the Facilities then due and payable to the Lenders or owing (but not due and payable) to the Lenders, as the case may be; *provided that*:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of a Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in Section 2.15, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swingline Loans to any assignee or participant, other than an assignment to any Loan Party or any Affiliate thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

Section 2.14. *[Reserved]*.

Section 2.15. *Cash Collateral*.

(a) *Certain Credit Support Events*. If (i) any L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, (ii) as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, (iii) the Borrowers shall be required to provide Cash Collateral pursuant to Section 8.02(c), or (iv) there shall exist a Defaulting Lender, each Borrower shall immediately (in the case of clause (iii) above) or within one Business Day (in all other cases) following any request by the Administrative Agent or the applicable L/C Issuer, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount attributable to Letters of Credit issued at the request of such Borrower (determined in the case of Cash Collateral provided pursuant to clause (iv) above, after giving effect to Section 2.16(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

(b) *Grant of Security Interest*. Each Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuers and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided by it as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.15(c). If

at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or the applicable L/C Issuer as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, each Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency with respect to Letters of Credit issued for such Borrower's account. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in one or more Controlled Accounts at Bank of America. The Borrowers shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) *Application.* Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.15 or Sections 2.03, 2.04, 2.05, 2.16 or 8.02 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Revolving Credit Lender that is a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) *Release.* Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Revolving Credit Lender (or, as appropriate, its assignee following compliance with Section 11.06(b)(vi))) or (ii) the determination by the Administrative Agent and the applicable L/C Issuer that there exists excess Cash Collateral; *provided, however,* (x) any such release shall be without prejudice to, and any disbursement or other transfer of Cash Collateral shall be and remain subject to, any other Lien conferred under the Loan Documents and the other applicable provisions of the Loan Documents, and (y) the Person providing Cash Collateral and the applicable L/C Issuer may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

Section 2.16. Defaulting Lenders.

(a) *Adjustments.* Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) *Waivers and Amendments.* Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders" and Section 11.01.

(ii) *Defaulting Lender Waterfall.* Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the

payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any L/C Issuer or Swingline Lender hereunder; third, to Cash Collateralize the L/C Issuers' Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.15; fourth, as the applicable Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the applicable Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuers' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.15; sixth, to the payment of any amounts owing to the Lenders, the L/C Issuers or Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any L/C Issuer or the Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the applicable Borrower as a result of any judgment of a court of competent jurisdiction obtained by such Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise as may be required under the Loan Documents in connection with any Lien conferred thereunder or directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swingline Loans are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.16(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee payable under Sections 2.09(a) or 2.09(b) for any period during which that Lender is a Defaulting Lender (and the Borrowers shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.15.

(C) With respect to any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrowers shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each L/C Issuer and Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's or Swingline Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) *Reallocation of Applicable Percentages to Reduce Fronting Exposure.* All or any part of such Defaulting Lender's participation in L/C Obligations and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Revolving Credit Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (x) the conditions set forth in Section 4.02 are satisfied at the time of such reallocation (and, unless the Domestic Borrower shall have otherwise notified the Administrative Agent at such time, the Domestic Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Commitment. Subject to Section 11.23, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) *Cash Collateral, Repayment of Swingline Loans.* If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Domestic Borrower shall, without prejudice to any right or remedy available to it hereunder or under applicable Law, (x) first, prepay Swingline Loans in an amount equal to the Swingline Lenders' Fronting Exposure and (y) second, Cash Collateralize the L/C Issuers' Fronting Exposure in accordance with the procedures set forth in Section 2.15.

(b) *Defaulting Lender Cure.* If the Domestic Borrower, the Administrative Agent, the Swingline Lender and each L/C Issuer agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.16(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the applicable Borrower while that Lender was a Defaulting Lender; and *provided, further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Section 2.17. *Increase in Revolving Credit Facility.*

(a) *Request for Increase.* Provided there exists no Default, upon notice to the Administrative Agent (which shall promptly notify the Revolving Credit Lenders and other Eligible Assignees selected by the Domestic Borrower with the approval of the Administrative Agent, each L/C Issuer and the Swingline Lender (which approvals shall not be unreasonably withheld) (any such Eligible Assignees, “*Potential Revolving Credit Lenders*”)), the Borrowers may from time to time, request an increase in the Revolving Credit Facility (subject to item (iii) in the below proviso) by an aggregate amount of increases in the Revolving Credit Facility (for all such requests, but excluding all portions of such increase requests that are allocated as Incremental Term Loans pursuant to item (iii) of the proviso in this Section 2.17(a)) not greater than (x) \$350,000,000 less (y) the amount of all Incremental Term Loans made pursuant to Section 2.18 (whether pursuant to a direct Borrower request under such Section or the operation of item (iii) in the following proviso); *provided* that (i) any such request for an increase shall be in a minimum amount of \$25,000,000, (ii) the Borrowers may make a maximum of five such requests (inclusive of any direct requests made for Incremental Term Loans pursuant to Section 2.18) and (iii) no more than 50% of the aggregate amount requested pursuant to this Section 2.17 (A) by the applicable Borrower may be an increase to the Revolving Credit Facility and the remaining portion of such requested increase under this Section 2.17 shall be deemed a request for an Incremental Term Loan in such amount under, and in accordance with, the terms of Section 2.18. At the time of sending such notice, the applicable Borrower (in consultation with the Administrative Agent) shall specify the time period within which each Revolving Credit Lender or Potential Revolving Credit Lender is requested to respond (which shall in no event be less than ten Business Days from the date of delivery of such notice to the Revolving Credit Lenders and Potential Revolving Credit Lenders).

(b) *Lender Elections to Increase.* Each Revolving Credit Lender or Potential Revolving Credit Lender shall notify the Administrative Agent within such time period whether or not it agrees to increase its Revolving Credit Commitment or provide a new Revolving Credit Commitment, as applicable, and, if so, the amount thereof. Any Revolving Credit Lender or Potential Revolving Credit Lender not responding within such time period shall be deemed to have declined to increase its Revolving Credit Commitment or to provide a new Revolving Credit Commitment, as applicable.

(c) *Notification by Administrative Agent; Additional Revolving Credit Lenders.* The Administrative Agent shall notify the applicable Borrower and each Revolving Credit Lender of the Revolving Credit Lenders’ and Potential Revolving Credit Lenders’ responses to each request made hereunder. Each Potential Revolving Credit Lender that elects to participate in such requested increase (a “*New Revolving Credit Lender*”) shall become a Revolving Credit Lender hereunder pursuant to a joinder agreement in form and substance satisfactory to the Administrative Agent and its counsel.

(d) *Effective Date and Allocations.* If the Revolving Credit Facility is increased in accordance with this Section, the Administrative Agent and the applicable Borrower shall determine the effective date (the “*Revolving Credit Increase Effective Date*”) and the final allocation of such increase. The Administrative Agent shall promptly notify the applicable Borrower and the Revolving Credit Lenders and New Revolving Credit Lenders of the final allocation of such increase and the Revolving Credit Increase Effective Date. Upon the effectiveness of any such increase, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the increased

Revolving Credit Facility. Any such amendment may be memorialized in writing by the Administrative Agent with the Borrowers' consent and furnished to the other parties hereto.

(e) *Conditions to Effectiveness of Increase.* As a condition precedent to such increase, the Domestic Borrower shall deliver to the Administrative Agent a certificate of each Loan Party dated as of the Revolving Credit Increase Effective Date (in sufficient copies for each Lender) signed by a Responsible Officer of such Loan Party (x) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such increase, and (y) certifying that, before and after giving effect to such increase, (A) no Default or Event of Default exists, (B) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects (or, with respect to representations and warranties modified by materiality standards, in all respects) on and as of the Revolving Credit 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 2.17, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, (C) on a *pro forma* basis after giving effect to the incurrence of any Revolving Credit Loans made on the Revolving Credit Increase Effective Date or the incurrence of any Incremental Term Loans made on the Incremental Term Loan Date, the Borrowers and their respective Subsidiaries shall be in *pro forma* compliance with all of the covenants set forth in Section 7.11, such compliance to be determined on the basis of the financial information most recently delivered to the Administrative Agent and the Lenders pursuant to Section 6.01(a) or (b), (D) no less than 50% of the aggregate amount of the increase requested pursuant to Section 2.17(a) shall have been fully subscribed for as an Incremental Term Loan by existing or new Incremental Term Lenders, and (E) the other conditions set forth in this Section 2.17 have been satisfied. The Administrative Agent shall have received legal opinions relating to such increase and other closing certificates and documentation as may be reasonably requested and consistent with those delivered on the Closing Date under Section 4.01. The Borrowers shall prepay any Revolving Credit Loans outstanding on the Revolving Credit Increase Effective Date (and pay any additional amounts required pursuant to Section 3.05) to the extent necessary to keep the outstanding Revolving Credit Loans ratable with any revised Applicable Revolving Credit Percentages arising from any nonratable increase in the Revolving Credit Commitments under this Section.

(f) *Conflicting Provisions.* This Section shall supersede any provisions in Section 2.13 or 11.01 to the contrary.

(g) *Pari Passu.* All increases to the Revolving Credit Commitment shall be guaranteed and secured on a *pari passu* basis with the existing Revolving Credit Facility, the existing Term Facility and any existing Incremental Term Facility.

Section 2.18. Incremental Term Loans

. (a) Provided there exists no Default or Event of Default, upon notice to the Administrative Agent (which shall promptly notify the Lenders and other Eligible Assignees selected by the Domestic Borrower with the approval of the Administrative Agent (which approval shall not be unreasonably withheld) (any such Eligible Assignees, "*Potential Incremental Term Lenders*")), the Borrowers may from time to time, request Incremental Term Commitments in Dollars in an aggregate amount (for all such requests including all portions of such increase requests that are allocated as Incremental Term Loans pursuant to item (iii) of the proviso in

Section 2.17(a)) not greater than (x) \$350,000,000 less (y) the aggregate amount of increases in the Revolving Credit Facility made pursuant to Section 2.17; *provided* that (A) any such request for Incremental Term Commitments shall be in a minimum amount of \$25,000,000 and (B) the Borrowers may make a maximum of five such direct requests (inclusive of any requests made pursuant to Section 2.17). At the time of sending such notice, the applicable Borrower (in consultation with the Administrative Agent) shall specify (x) the time period within which each Lender or Potential Incremental Term Lender is requested to respond (which shall in no event be less than fifteen Business Days from the date of delivery of such notice to the Lenders and Potential Incremental Term Lenders), (y) the pricing and the amortization terms with respect to such Incremental Term Commitments and (z) the applicable Incremental Term Loan Date.

(b) *Lender Elections; Additional Lenders.* Each Lender and Potential Incremental Term Lender shall notify the Administrative Agent within such time period of its Incremental Term Commitment, if any. Any Lender or Potential Incremental Term Lender not responding within such time period shall be deemed to have declined to provide an Incremental Term Commitment. The Administrative Agent shall notify the applicable Borrower of the Lenders' and Potential Incremental Term Lenders' responses to each request made hereunder.

(c) *Incremental Term Assumption Agreement.* The Borrowers and each Incremental Term Lender shall execute and deliver to the Administrative Agent an Incremental Term Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Incremental Term Commitment of such Incremental Term Lender. Each Incremental Term Assumption Agreement shall specify the terms of the Incremental Term Loans to be made thereunder; *provided* that the final maturity date of any Incremental Term Loans shall be no earlier than the later of the Maturity Date in respect of the Revolving Credit Facility and the latest maturity date for any Incremental Term Loans then outstanding. The Administrative Agent shall promptly notify each Lender and each Potential Incremental Term Lender that has elected to provide an Incremental Term Commitment as to the effectiveness of each Incremental Term Assumption Agreement. Upon the effectiveness of any Incremental Term Assumption Agreement, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Incremental Term Commitments evidenced thereby. Any such amendment may be memorialized in writing by the Administrative Agent with the Borrowers' consent and furnished to the other parties hereto.

(d) *Conditions to Effectiveness of Incremental Term Loan.* As a condition precedent to any Incremental Term Commitment becoming effective under this Section 2.18, the Domestic Borrower shall deliver to the Administrative Agent a certificate of each Loan Party dated as of the Incremental Term Loan Date (in sufficient copies for each Lender requesting the same) signed by a Responsible Officer of such Loan Party (x) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such Incremental Term Loan, and (y) certifying that, before and after giving effect to such increase, (A) no Default or Event of Default Exists, (B) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects (or, with respect to representations and warranties modified by materiality standards, in all respects) on and as of the Incremental Term Loan 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 2.18, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a)

and (b), respectively, of Section 6.01, (C) on a *pro forma* basis after giving effect to the incurrence of any Incremental Term Loans made on the Incremental Term Loan Date or the incurrence of any Revolving Credit Loans made on the Revolving Credit Increase Effective Date, the Borrowers and their respective Subsidiaries shall be in *pro forma* compliance with all of the covenants set forth in Section 7.11, such compliance to be determined on the basis of the financial information most recently delivered to the Administrative Agent and the Lenders pursuant to Section 6.01(a) or (b) and (D) the other conditions set forth in this Section 2.18 have been satisfied. The Administrative Agent shall have received legal opinions relating to such Incremental Term Loans and other closing certificates and documentation as required by the relevant Incremental Assumption Agreement and consistent with those delivered on the Closing Date under Section 4.01.

(e) *Conflicting Provisions.* This Section shall supersede any provisions in Section 2.13 or 11.01 to the contrary.

(f) *Pari Passu.* All Incremental Term Loans shall be guaranteed and secured on a *pari passu* basis with the existing Revolving Credit Facility, the existing Term Facility and any existing Incremental Term Facility.

Section 2.19. Designated Lenders

. Each of the Administrative Agent, each L/C Issuer, the Swingline Lender and each Lender at its option may make any Credit Extension or otherwise perform its obligations hereunder through any Lending Office (each, a “*Designated Lender*”); *provided* that any exercise of such option shall not affect the obligation of such Borrower to repay any Credit Extension in accordance with the terms of this Agreement. Any Designated Lender shall be considered a Lender; *provided* that in the case of an Affiliate or branch of a Lender, such provisions that would be applicable with respect to Credit Extensions actually provided by such Affiliate or branch of such Lender shall apply to such Affiliate or branch of such Lender to the same extent as such Lender; *provided* that for the purposes only of voting in connection with any Loan Document, any participation by any Designated Lender in any outstanding Credit Extension shall be deemed a participation of such Lender.

ARTICLE III

TAXES, YIELD PROTECTION AND ILLEGALITY

Section 3.01. Taxes.

(a) *Defined Terms.* For purposes of this Section 3.01, the term “*Applicable Law*” includes FATCA and the term “*Lender*” includes each L/C Issuer.

(b) *Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.* Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by Applicable Laws. If any Applicable Laws (as determined in the good faith discretion of an applicable Withholding Agent) require the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan

Party shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(c) *Payment of Other Taxes by the Loan Parties.* The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) *Tax Indemnifications.* (i) Each of the Loan Parties shall, and does hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to such Loan Party by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. Each Loan Party shall, and does hereby, jointly and severally indemnify the Administrative Agent, and shall make payment in respect thereof within 10 days after demand therefor, for any amount which a Lender for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 3.01(d)(ii) below.

(i) Each Lender shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (x) the Administrative Agent against any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of such Loan Party to do so), (y) the Administrative Agent and each Loan Party, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.06(d) relating to the maintenance of a Participant Register and (z) the Administrative Agent and each Loan Party, as applicable, against any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent or any Borrower in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii).

(e) *Evidence of Payments.* As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority, as provided in this Section 3.01, the Domestic Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) *Status of Lenders; Tax Documentation.* (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Domestic Borrower or the Foreign Borrower and the Administrative Agent, at the time or times reasonably requested by the Domestic Borrower, the Foreign Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Domestic Borrower, the Foreign Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Domestic Borrower, the Foreign Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Domestic Borrower, the Foreign Borrower or the Administrative Agent as will enable Domestic Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements or any other applicable withholding tax. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(e)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(i) Without limiting the generality of the foregoing, in the event that a Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Domestic Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Domestic Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Domestic Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Domestic Borrower or the Administrative Agent), whichever of the following is applicable:

(I) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(II) executed copies of IRS Form W-8ECI;

(III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit F-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of such Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN-E (or W-8BEN, as applicable); or

(IV) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-2 or Exhibit F-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Domestic Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Domestic Borrower or the Administrative Agent), executed copies (or originals, as required) of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit the Domestic Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Domestic Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Domestic Borrower or the Administrative Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Domestic Borrower or the Administrative Agent as may be necessary for the Domestic Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(ii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Domestic Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) **Treatment of Certain Refunds.** Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender, or have any obligation to pay to any Lender, any refund of Taxes withheld or deducted from funds paid for the account of such Lender. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section 3.01, it shall pay to such Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided* that each Loan Party, upon the request of the Recipient, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to any Loan Party pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Loan Party or any other Person.

(h) **Survival.** Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

Section 3.02. Illegality

(a) If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund or charge interest with respect to any Credit Extension, or to determine or charge interest rates based upon the Eurocurrency Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars or any Alternative Currency in the applicable interbank market, then, on notice thereof by such Lender to the Domestic Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurocurrency Rate Loans in the affected currency or currencies or, in the case of Eurocurrency Rate Loans in Dollars, to convert Base Rate Loans to Eurocurrency Rate Loans shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurocurrency Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Domestic Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice,

(x) the Borrowers shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable and such Loans are denominated in Dollars, convert all Eurocurrency Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurocurrency Rate, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurocurrency Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurocurrency Rate. Upon any such prepayment or conversion, the Borrowers shall also pay accrued interest on the amount so prepaid or converted.

(a) If, in any applicable jurisdiction, the Administrative Agent, any L/C Issuer or any Lender or any Designated Lender (the “*Determining Party*”) determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Administrative Agent, any L/C Issuer or any Lender or its Designated Lender to (i) perform any of its obligations hereunder or under any other Loan Document, (ii) fund or maintain its participation in any Loan or (iii) issue, make, maintain, fund or charge interest or fees with respect to any Credit Extension to the Foreign Borrower such Determining Party shall promptly notify the Administrative Agent and, upon the Administrative Agent notifying the Domestic Borrower of such determination, and until such notice by such Determining Party is revoked, any obligation of such Person to issue, make, maintain, fund or charge interest or fees with respect to any such Credit Extension shall be suspended, and to the extent required by applicable Law, cancelled. Upon receipt of such notice, the Loan Parties shall, (A) repay such Determining Party’s participation in the Loans or other applicable Obligations on the last day of the Interest Period for each Loan or other Obligation occurring after the Administrative Agent has notified the Domestic Borrower or, if earlier, the date specified by such Determining Party in the notice delivered to the Administrative Agent (being no earlier than the last day of any applicable grace period permitted by applicable Law), (B) to the extent applicable to any L/C Issuer, Cash Collateralize that portion of applicable L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized and (C) take all reasonable actions requested by such Determining Party to mitigate or avoid such illegality.

Section 3.03. Inability to Determine Rates

(a) If in connection with any request for a Eurocurrency Rate Loan or a conversion to or continuation thereof, (i) the Administrative Agent determines that (A) deposits (whether in Dollars or an Alternative Currency) are not being offered to banks in the applicable offshore interbank market for such currency for the applicable amount and Interest Period of such Eurocurrency Rate Loan, (B) (1) adequate and reasonable means do not exist for determining the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan (whether denominated in Dollars or an Alternative Currency) or in connection with an existing or proposed Base Rate Loan and (2) the circumstances described in Section 3.03(c)(i) do not apply or (C) a fundamental change has occurred in the foreign exchange or interbank markets with respect to such Alternative Currency (including, without limitation, changes in national or international financial, political or economic conditions or currency

exchange rates or exchange controls) (in each case with respect to this clause (i), “*Impacted Loans*”), or (ii) the Administrative Agent or the Required Lenders determine that for any reason the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrowers and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans in the affected currency or currencies shall be suspended (to the extent of the affected Eurocurrency Rate Loans or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Eurocurrency Rate component of the Base Rate, the utilization of the Eurocurrency Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (or, in the case of a determination by the Required Lenders described in clause (ii) of this Section 3.03(a), until the Administrative Agent upon instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrowers may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans in the affected currency or currencies (to the extent of the affected Eurocurrency Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in Dollars in the amount specified therein.

(b) Notwithstanding the foregoing, if the Administrative Agent has made the determination described in clause (a)(i) of this Section 3.03, the Administrative Agent in consultation with the Domestic Borrower, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (i) the Administrative Agent revokes the notice delivered with respect to the Impacted Loans under clause (a)(i) of this Section 3.03, (ii) the Administrative Agent or the Required Lenders notify the Administrative Agent and the Domestic Borrower that such alternative interest rate does not adequately and fairly reflect the cost to the Lenders of funding the Impacted Loans, or (iii) any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Domestic Borrower written notice thereof.

(c) Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Borrowers or Required Lenders notify the Administrative Agent (with, in the case of the Required Lenders, a copy to the Borrowers) that the Borrowers or Required Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining LIBOR for any Interest Period hereunder or any other tenors of LIBOR, including, without limitation, because the LIBOR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent or such administrator has made a public statement identifying a specific date after which LIBOR or the LIBOR Screen Rate shall no longer be made available, or used for determining the interest rate of loans, provided that, at the time of such

statement, there is no successor administrator that is satisfactory to the Administrative Agent, that will continue to provide LIBOR after such specific date (such specific date, the “Scheduled Unavailability Date”); or

(iii) the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over such administrator has made a public statement announcing that all Interest Periods and other tenors of LIBOR are no longer representative; or

(iv) syndicated loans currently being executed, or that include language similar to that contained in this Section 3.03, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR,

then, in the case of clauses (i)-(iii) above, on a date and time determined by the Administrative Agent (any such date, the “LIBOR Replacement Date”), which date shall be at the end of an Interest Period or on the relevant interest payment date, as applicable, for interest calculated and shall occur reasonably promptly upon the occurrence of any of the events or circumstances under clauses (i), (ii) or (iii) above and, solely with respect to clause (ii) above, no later than the Scheduled Unavailability Date, LIBOR will be replaced hereunder and under any Loan Document with, subject to the proviso below, the first available alternative set forth in the order below for any payment period for interest calculated that can be determined by the Administrative Agent, in each case, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document (the “LIBOR Successor Rate”; and any such rate before giving effect to the Related Adjustment, the “Pre-Adjustment Successor Rate”):

(x) Term SOFR plus the Related Adjustment; and

(y) SOFR plus the Related Adjustment;

and in the case of clause (iv) above, the Borrowers and Administrative Agent may amend this Agreement solely for the purpose of replacing LIBOR under this Agreement and under any other Loan Document in accordance with the definition of “LIBOR Successor Rate” and such amendment will become effective at 5:00 p.m., on the fifth Business Day after the Administrative Agent shall have notified all Lenders and the Borrowers of the occurrence of the circumstances described in clause (iv) above unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders object to the implementation of a LIBOR Successor Rate pursuant to such clause;

provided that, if the Administrative Agent determines that Term SOFR has become available, is administratively feasible for the Administrative Agent and would have been identified as the Pre-Adjustment Successor Rate in accordance with the foregoing if it had been so available at the time that the LIBOR Successor Rate then in effect was so identified, and the Administrative Agent notifies the Borrowers and each Lender of such availability, then from and after the beginning of the Interest Period, relevant interest payment date or payment period for interest calculated, in each case, commencing no less than thirty (30) days after the date of such notice, the Pre-Adjustment Successor Rate shall be Term SOFR and the LIBOR Successor Rate shall be Term SOFR plus the relevant Related Adjustment.

The Administrative Agent will promptly (in one or more notices) notify the Borrowers and each Lender of (x) any occurrence of any of the events, periods or circumstances under clauses (i) through (iii) above, (y) a LIBOR Replacement Date and (z) the LIBOR Successor Rate.

Any LIBOR Successor Rate shall be applied in a manner consistent with market practice; *provided* that to the extent such market practice is not administratively feasible for the Administrative Agent, such LIBOR Successor Rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

Notwithstanding anything else herein, if at any time any LIBOR Successor Rate as so determined would otherwise be less than 0.75%, the LIBOR Successor Rate will be deemed to be 0.75%, for the purposes of this Agreement and the other Loan Documents.

In connection with the implementation of a LIBOR Successor Rate, the Administrative Agent will have the right to make LIBOR Successor Rate Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such LIBOR Successor Rate Conforming Changes will become effective without any further action or consent of any other party to this Agreement; *provided* that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such LIBOR Successor Rate Conforming Changes to the Borrowers and the Lenders reasonably promptly after such amendment becomes effective.

If the events or circumstances of the type described in 3.03(c)(i)-(iii) have occurred with respect to the LIBOR Successor Rate then in effect, then the successor rate thereto shall be determined in accordance with the definition of "LIBOR Successor Rate."

(d) Notwithstanding anything to the contrary herein, (i) after any such determination by the Administrative Agent or receipt by the Administrative Agent of any such notice described under Section 3.03(c)(i)-(iii), as applicable, if the Administrative Agent determines that none of the LIBOR Successor Rates is available on or prior to the LIBOR Replacement Date, (ii) if the events or circumstances described in Section 3.03(c)(iv) have occurred but none of the LIBOR Successor Rates is available, or (iii) if the events or circumstances of the type described in Section 3.03(c)(i)-(iii) have occurred with respect to the LIBOR Successor Rate then in effect and the Administrative Agent determines that none of the LIBOR Successor Rates is available, then in each case, the Administrative Agent and the Borrowers may amend this Agreement solely for the purpose of replacing LIBOR or any then current LIBOR Successor Rate in accordance with this Section 3.03 at the end of any Interest Period, relevant interest payment date or payment period for interest calculated, as applicable, with another alternate benchmark rate giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated syndicated credit facilities for such alternative benchmarks and, in each case, including any Related Adjustments and any other mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated syndicated credit facilities for such benchmarks, which adjustment or method for calculating such adjustment shall be published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion and may be periodically updated. For the avoidance of doubt, any such proposed rate and adjustments shall constitute a LIBOR Successor Rate. Any such amendment shall become effective at 5:00 p.m. on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Borrowers unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders object to such amendment.

(e) If, at the end of any Interest Period, relevant interest payment date or payment period for interest calculated, no LIBOR Successor Rate has been determined in accordance with clauses (c) or (d)

of this Section 3.03 and the circumstances under clauses (c)(i) or (c)(iii) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Administrative Agent will promptly so notify the Borrowers and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans shall be suspended, (to the extent of the affected Eurocurrency Rate Loans, Interest Periods, interest payment dates or payment periods), and (y) the Eurocurrency Rate component shall no longer be utilized in determining the Base Rate, until the LIBOR Successor Rate has been determined in accordance with clauses (c) or (d). Upon receipt of such notice, the Borrowers may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans (to the extent of the affected Eurocurrency Rate Loans, Interest Periods, interest payment dates or payment periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans (subject to the foregoing clause (y)) in the amount specified therein.

Section 3.04. Increased Costs; Reserves on Eurocurrency Rate Loans.

(a) *Increased Costs Generally.* If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 3.04(e)) or any L/C Issuer;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or any L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurocurrency Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any Loan), or to increase the cost to such Lender or such L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or such L/C Issuer, the Domestic Borrower will pay (or cause the Foreign Borrower to pay) to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) *Capital Requirements.* If any Lender or any L/C Issuer determines that any Change in Law affecting such Lender or such L/C Issuer or any Lending Office of such Lender or such Lender's or such L/C Issuer's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or such L/C Issuer's capital or on the capital of such Lender's or such L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit or Swingline

Loans held by, such Lender, or the Letters of Credit issued by such L/C Issuer, to a level below that which such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such L/C Issuer's policies and the policies of such Lender's or such L/C Issuer's holding company with respect to capital adequacy and liquidity), then from time to time the Domestic Borrower will pay (or cause the Foreign Borrower to pay) to such Lender or such L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or such L/C Issuer or such Lender's or such L/C Issuer's holding company for any such reduction suffered.

(c) *Mandatory Costs.* If any Lender or the Alternative Currency L/C Issuer incurs any Mandatory Costs attributable to the Obligations, then from time to time the Domestic Borrower will pay (or cause the Foreign Borrower to pay) to such Lender or the Alternative Currency L/C Issuer, as the case may be, such Mandatory Costs. Such amount shall be expressed as a percentage rate per annum and shall be payable on the full amount of the applicable Obligations.

(d) *Certificates for Reimbursement.* A certificate of a Lender or an L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or such L/C Issuer or its holding company, as the case may be, as specified in subsection (a), (b) or (c) of this Section and delivered to the Domestic Borrower shall be conclusive absent manifest error. The Domestic Borrower shall pay (or cause the Foreign Borrower to pay) such Lender or such L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(e) *Reserves on Eurocurrency Rate Loans.* The Domestic Borrower shall pay (or cause the Foreign Borrower to pay) to each Lender, (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "*Eurocurrency liabilities*"), additional interest on the unpaid principal amount of each Eurocurrency Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive) and (ii) without duplication of any cost in clause (i) of this clause (e), as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Eurocurrency Rate Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which in each case shall be due and payable on each date on which interest is payable on such Loan, provided the Domestic Borrower shall have received at least 10 days' prior notice (with a copy to the Administrative Agent) of such additional interest or costs from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest or costs shall be due and payable 10 days from receipt of such notice.

(f) *Delay in Requests.* Failure or delay on the part of any Lender or any L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's or such L/C Issuer's right to demand such compensation; *provided* that no Borrower shall be required to compensate a Lender or an L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender or such L/C Issuer, as the case may be, notifies the Domestic Borrower of the

Change in Law giving rise to such increased costs or reductions and of such Lender's or such L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

Section 3.05. Compensation for Losses

. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Domestic Borrower shall promptly compensate (or cause the Foreign Borrower to compensate) such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

- (a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);
- (b) any failure by any Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by Domestic Borrower or the Foreign Borrower;
- (c) any failure by any Borrower to make payment of any Loan or of any drawing under any Letter of Credit (or interest due thereon) denominated in an Alternative Currency on its scheduled due date or any payment thereof in a different currency; or
- (d) any assignment of a Eurocurrency Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Domestic Borrower pursuant to Section 11.13;

including any loss of anticipated profits, any foreign exchange losses, and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained or from the performance of any foreign exchange contract. The Domestic Borrower shall also pay (or cause the Foreign Borrower to pay) any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurocurrency Rate Loan made by it at the Eurocurrency Rate for such Loan by a matching deposit or other borrowing in the offshore interbank market for such currency for a comparable amount and for a comparable period, whether or not such Eurocurrency Rate Loan was in fact so funded.

Section 3.06. Mitigation Obligations; Replacement of Lenders.

(a) *Designation of a Different Lending Office.* If any Lender requests compensation under Section 3.04, or requires any Borrower to pay any Indemnified Taxes or additional amounts to any Lender, any L/C Issuer, or any Governmental Authority for the account of any Lender or any L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Domestic Borrower such Lender or such L/C Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and

obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or such L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or such L/C Issuer, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or such L/C Issuer, as the case may be. The Domestic Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender or any L/C Issuer in connection with any such designation or assignment.

(b) *Replacement of Lenders.* If any Lender requests compensation under Section 3.04, or if any Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Domestic Borrower may replace such Lender in accordance with Section 11.13.

Section 3.07. Survival

. All obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder, resignation of the Administrative Agent and the Facility Termination Date.

ARTICLE IV

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

Section 4.01. Conditions of Initial Credit Extension

. The obligation of any L/C Issuer and each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to the Administrative Agent and each of the Lenders:

(i) executed counterparts of this Agreement, sufficient in number for distribution to the Administrative Agent, each Lender and the Domestic Borrower;

(ii) a Revolving Credit Note executed by each of the Borrowers in favor of each Revolving Credit Lender requesting a Revolving Credit Note, and an Initial Term Note executed by the Domestic Borrower in favor of each Term Lender requesting an Initial Term Note;

(A) the Collateral Documents or any amendments or modifications thereto, duly executed by each Loan Party, to the extent required under local law to ensure the continuing validity and enforceability of such Collateral Document

or to ensure the continuing security interests in the applicable assets (and the continuing perfection thereof) granted or purported to be granted pursuant to such Collateral Documents, including, without limitation, in the assets of the Domestic Borrower, the Foreign Borrower and the Foreign Guarantors and in the Equity Interests in the Foreign Borrower, Diodes Zetex Limited and Diodes Hong Kong, and all related confirmations, authorizing resolutions, legal opinions and such other agreements, documents, certificates, filings, notarizations, and recordations,

(B) certificates representing the Pledged Equity referred to therein accompanied by undated stock powers executed in blank and instruments evidencing the Pledged Debt indorsed in blank (to the extent available in any non-U.S. jurisdiction), in each case to the extent such Pledged Equity is certificated and has not previously been delivered to the Administrative Agent; and the Administrative Agent shall have received satisfactory evidence that the Liens in favor of the Administrative Agent on the equity interests of the Foreign Loan Parties required to be pledged have been validly created, are enforceable and have been perfected under the laws of each applicable jurisdiction,

(C) proper Financing Statements in form appropriate for filing under the Uniform Commercial Code of all jurisdictions that the Administrative Agent may deem necessary or desirable (or the foreign equivalent thereof) in order to perfect the Liens created under the Collateral Documents, covering the Collateral described in the Collateral Documents as well as UCC, Lien and Intellectual Property, charge, and other searches (to the extent available in any non-U.S. jurisdiction) and other evidence satisfactory to the Administrative Agent that such Liens are the only Liens upon the Collateral, except Liens permitted hereunder,

(D) completed requests for information, dated on or before the date of the initial Credit Extension, listing all effective financing statements filed in the jurisdictions referred to in clause (B) above that name any Loan Party as debtor, together with copies of such other financing statements,

(E) evidence of the completion of all other actions, recordings and filings of or with respect to the Collateral Documents that the Administrative Agent may deem necessary or desirable in order to perfect the Liens created thereby, and

(F) evidence that all other action that the Administrative Agent may deem necessary or desirable in order to perfect or continue perfection of the Liens created under the Collateral Documents has been taken (including receipt of duly executed payoff letters, UCC-3 termination statements and landlords' and bailees' waiver and consent agreements);

(iv) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party;

(v) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;

(vi) a favorable opinion of Sheppard, Mullin, Richter & Hampton, LLP, counsel to the Loan Parties, addressed to the Administrative Agent and each Lender, as to matters concerning the Loan Parties and the Loan Documents as the Required Lenders may reasonably request;

(vii) a favorable opinion of NautaDutilh New York P.C., local counsel to the Loan Parties in the Netherlands, addressed to the Administrative Agent and each Lender, as to matters concerning the Loan Parties and the Loan Documents as the Required Lenders may reasonably request;

(viii) a favorable opinion of Allen & Overy LLP, local counsel to the Loan Parties in the United Kingdom, addressed to the Administrative Agent and each Lender, as to matters concerning the Loan Parties and the Loan Documents as the Required Lenders may reasonably request;

(ix) a certificate of a Responsible Officer of the Domestic Borrower either (A) attaching copies of all consents, licenses and approvals required in connection with the execution, delivery and performance by each Loan Party and the validity against each Loan Party of the Loan Documents to which it is a party, and such consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required;

(x) a certificate signed by a Responsible Officer of the Domestic Borrower certifying (A) that the conditions specified in Sections 4.02(a) and (b) have been satisfied, and (B) that there has been no event or circumstance since the date of the Audited Financial Statements that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect;

(xi) no action, suit, investigation, litigation or proceeding pending or, to the knowledge of either Borrower, threatened in any court or before any arbitrator or governmental instrumentality that in the Administrative Agent's or Arrangers' judgment could reasonably be expected to have a Material Adverse Effect;

(xii) annual audited financial statements of the Domestic Borrower and its Subsidiaries on a consolidated basis for the fiscal year ended 2019;

(xiii) interim financial statements of the Domestic Borrower and its Subsidiaries on a consolidated basis described in Section 5.05(b);

(xiv) pro forma financial statements for the Domestic Borrower and its Subsidiaries on a consolidated basis for the fiscal period ending on March 31, 2020, including forecasts prepared by management of the Domestic Borrower, of consolidated balance sheets and statements of income or operations and cash flows of the Domestic Borrower and its Subsidiaries on a quarterly basis for the first year following the Closing Date and on an annual basis for each year thereafter during the term of this Agreement;

(xv) certificates attesting to the Solvency of each Borrower and their respective Subsidiaries before and after giving effect to the financing under this Agreement and the transactions contemplated hereby, from the chief financial officer of the Domestic Borrower and from a Responsible Officer of the Foreign Borrower;

(xvi) evidence that all insurance required to be maintained pursuant to the Loan Documents has been obtained and is in effect;

(xvii) the documentation and other information as to each Loan Party as requested by the Administrative Agent and each Lender in order to comply with requirements of the PATRIOT Act; and

(xviii) such other assurances, certificates, documents, consents or opinions as the Administrative Agent, each L/C Issuer, the Swingline Lender or the Required Lenders reasonably may require.

(b) Each Lender shall have obtained all applicable licenses, consents, permits and approvals as deemed necessary by such Lender in order to execute and perform the transactions contemplated by the Loan Documents.

(c) The Borrowers shall have repaid Revolving Credit Loans, Swingline Loans and L/C Borrowings and/or Cash Collateralized the L/C Obligations (other than the L/C Borrowings) in an aggregate amount such that the Total Revolving Credit Outstandings do not exceed the Revolving Credit Facility in effect following the Closing Date, taking into account the instructions by the Domestic Borrower to make such transfers among the Revolving Credit Facility and the Term Facility as may be necessary to ensure that all Outstanding Amounts and Commitments are in accordance with the Applicable Percentages of the Lenders under the relevant Facility and in accordance with this Agreement.

(d) Any fees required to be paid on or before the Closing Date shall have been paid.

(e) The Domestic Borrower shall have paid all fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative

Agent) to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (*provided* that such estimate shall not thereafter preclude a final settling of accounts between the Domestic Borrower and the Administrative Agent).

(f) The Lenders shall have completed a due diligence investigation of the Borrowers, their respective Subsidiaries in scope, and with results, satisfactory to the Lenders, and shall have been given such access to the management, records, books of account, contracts and properties of the Borrowers and their respective Subsidiaries and shall have received such financial, business and other information regarding each of the foregoing Persons and businesses as they shall have requested.

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Section 4.02. Conditions to all Credit Extensions

. The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurocurrency Rate Loans) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrowers and each other Loan Party contained in Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that for purposes of this Section 4.02, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, and the representations and warranties contained in Section 5.24 shall only have effect on and following the Lite-On Acquisition Date.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the applicable L/C Issuer or the Swingline Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) In the case of a Credit Extension to be denominated in an Alternative Currency, such currency remains an Eligible Currency.

(e) There shall be no impediment, restriction, limitation or prohibition imposed under Law or by any Governmental Authority, as to the proposed financing under this Agreement or the repayment thereof or as to rights created under any Loan Document or as to application of the proceeds of the realization of any such rights.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurocurrency Rate Loans) submitted by the Borrowers shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Each Borrower and each other Loan Party, represents and warrants to the Administrative Agent and the Lenders that:

Section 5.01. Existence, Qualification and Power

. Each Loan Party and each Subsidiary thereof (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party and consummate the transactions contemplated hereby, and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clauses (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

Section 5.02. Authorization; No Contravention

. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is or is to be a party have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.

Section 5.03. Governmental Authorization; Other Consents

. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, (b) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents, (c) the perfection or maintenance of the Liens created under the Collateral Documents (including the first priority nature thereof) or (d) the exercise by the Administrative Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, other than

(i) authorizations, approvals, actions, notices and filings which have been duly obtained prior to the Closing Date and (ii) filings to perfect the Liens created by the Collateral Documents.

Section 5.04. Binding Effect

. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms.

Section 5.05. Financial Statements; No Material Adverse Effect

. (a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Domestic Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Domestic Borrower and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(b) The unaudited consolidated and consolidating balance sheets of the Domestic Borrower and its Subsidiaries dated March 31, 2020, and the related consolidated and consolidating statements of income or operations, shareholders' equity and cash flows for the fiscal quarter ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present the financial condition of the Domestic Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(c) Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

(d) The consolidated and consolidating forecasted balance sheets, statements of income and cash flows of the Domestic Borrower and its Subsidiaries delivered pursuant to Section 4.01 or Section 6.01(c) were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair in light of the conditions existing at the time of delivery of such forecasts, and represented, at the time of delivery, the Domestic Borrower's best estimate of its future financial condition and performance.

Section 5.06. Litigation

. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Domestic Borrower after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Domestic Borrower or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement, any other Loan Document or any of the transactions contemplated hereby, or (b) either individually or in the aggregate, if determined adversely, could reasonably be expected to have a Material Adverse Effect.

Section 5.07. No Default

. Neither any Loan Party nor any Subsidiary thereof is in default under, or with respect to, any Contractual Obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

Section 5.08. Ownership of Property; Liens; Investments

. (a) Each Loan Party and each Subsidiary thereof has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) The property of each Loan Party and each of its Subsidiaries is subject to no Liens, other than Liens permitted by Section 7.01 and as set forth on Schedule 5.08(b).

(c) Schedule 5.08(c) sets forth a complete and accurate list of all real property owned by each Loan Party and each of its Subsidiaries, showing as of the date hereof the street address, county or other relevant jurisdiction, state, record owner and book value thereof, and identifying whether such real property is Material Real Property. Each Loan Party and each of its Subsidiaries has good, marketable and insurable fee simple title to the real property owned by such Loan Party or such Subsidiary, free and clear of all Liens, other than Liens created or permitted by the Loan Documents.

(d) Schedule 5.08(d)(i) sets forth a complete and accurate list of all leases of real property under which any Loan Party or any Subsidiary of a Loan Party is the lessee, showing as of the date hereof the street address, county or other relevant jurisdiction, state, lessor, lessee, expiration date and annual rental cost thereof. Each lease is the legal, valid and binding obligation of the lessor thereof, enforceable in accordance with its terms except to the extent that failure of such lease to be so enforceable would not, or could not reasonably be expected to, result in a Material Adverse Effect. Schedule 5.08(d)(ii) sets forth a complete and accurate list of all leases of real property under which any Loan Party or any Subsidiary of a Loan Party is the lessor, showing as of the date hereof the street address, county or other relevant jurisdiction, state, lessor, lessee, expiration date and annual rental cost thereof. Each lease is the legal, valid and binding obligation of the lessee thereof, enforceable in accordance with its terms except to the extent that failure of such lease to be so enforceable would not, or could not reasonably be expected to, result in a Material Adverse Effect.

(e) Schedule 5.08(e) sets forth a complete and accurate list of all Investments held by any Loan Party or any Subsidiary of a Loan Party on the date hereof, showing as of the date hereof the amount, obligor or issuer and maturity, if any, thereof.

Section 5.09. Environmental Compliance

. (a) The Loan Parties and their respective Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof each Borrower has reasonably concluded that such Environmental Laws and claims could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Except as otherwise set forth in Schedule 5.09, none of the properties currently or formerly owned or operated by any Loan Party or any of its Subsidiaries is listed or proposed for listing on the NPL or on the CERCLIS or any analogous

foreign, state or local list or is adjacent to any such property; there are no and never have been any underground or above-ground storage tanks or any surface impoundments, septic tanks, pits, sumps or lagoons in which Hazardous Materials are being or have been treated, stored or disposed on any property currently owned or operated by any Loan Party or any of its Subsidiaries or, to the best of the knowledge of the Loan Parties, on any property formerly owned or operated by any Loan Party or any of its Subsidiaries; there is no asbestos or asbestos-containing material on any property currently owned or operated by any Loan Party or any of its Subsidiaries; and Hazardous Materials have not been released, discharged or disposed of on any property currently or formerly owned or operated by any Loan Party or any of its Subsidiaries.

(c) Neither any Loan Party nor any of its Subsidiaries is undertaking, and has not completed, either individually or together with other potentially responsible parties, any investigation or assessment or remedial or response action relating to any actual or threatened release, discharge or disposal of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law; and all Hazardous Materials generated, used, treated, handled or stored at, or transported to or from, any property currently or formerly owned or operated by any Loan Party or any of its Subsidiaries have been disposed of in a manner not reasonably expected to result in material liability to any Loan Party or any of its Subsidiaries.

Section 5.10. Insurance

. The properties of the Domestic Borrower and its Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the Domestic Borrower or its Subsidiaries, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where any Borrower or the applicable Subsidiary operates. The general liability, casualty, property, terrorism and business interruption insurance coverage of the Loan Parties as in effect on the Closing Date, and as of the last date such Schedule was required to be updated in accordance with Sections 6.02 and 6.13, is outlined as to carrier, policy number, expiration date, type, amount and deductibles on Schedule 5.10 and such insurance coverage complies with the requirements set forth in this Agreement and the other Loan Documents.

Section 5.11. Taxes

(a) The Domestic Borrower and its Subsidiaries have filed all Federal, state and other material tax returns and reports required to be filed, and have paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the Domestic Borrower or any Subsidiary that would, if made, have a Material Adverse Effect. Neither any Loan Party nor any Subsidiary thereof is party to any tax sharing agreement.

(a) There is no tax, levy, impost, duty, fee, assessment or other governmental charge, or any deduction or withholding, imposed by any Governmental Authority in or of the jurisdiction in which the Foreign Borrower is organized and existing either (i) on or by virtue of the execution or delivery of any Loan Documents or (ii) on any payment to be made by or on account of the Foreign Borrower pursuant to any Loan Documents.

(b) The Foreign Borrower is resident for Tax purposes only in the United Kingdom.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state laws. Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the Internal Revenue Service. To the best knowledge of the Domestic Borrower, nothing has occurred that would prevent or cause the loss of such tax-qualified status.

(a) There are no pending or, to the best knowledge of the Domestic Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan or Multiemployer Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect.

(b) (i) No ERISA Event has occurred, and neither the Domestic Borrower nor any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event; (ii) the Domestic Borrower and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is 60% or higher and neither the Domestic Borrower nor any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; (iv) neither the Domestic Borrower nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) neither the Domestic Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan or Multiemployer Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan or Multiemployer Plan.

(c) Schedule 5.12(d) hereto lists, as of the Closing Date, all Pension Plans, Foreign Pension Plans and Multiemployer Plans and, thereafter, as of each date on which such Schedule is updated pursuant to Section 6.02(i), any new Pension Plans, Foreign Pension Plans or Multiemployer Plans for which any Borrower, any Subsidiary or any ERISA Affiliate could have liability.

(d) Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (i) each Foreign Pension Plan is in compliance and in good standing (to the extent such concept exists in the relevant jurisdiction) with all laws, regulations and rules applicable thereto, including all funding requirements, and the respective requirements of the governing documents for such Foreign Pension Plan; (ii) with respect to each Foreign Pension Plan maintained or contributed to by any Loan Party or any Subsidiary thereof, (A) that is required by Applicable Law to be funded in a trust or other funding vehicle, the aggregate of the accumulated benefit obligations under such Foreign Pension Plan does not exceed to any material extent the current fair market value of the assets held in the trusts or

similar funding vehicles for such Foreign Pension Plan and (B) that is not required by Applicable Law to be funded in a trust or other funding vehicle, reasonable reserves have been established in accordance with prudent business practice or where required by ordinary accounting practices in the jurisdiction in which such Foreign Pension Plan is maintained; (iii) there are no actions, suits or claims (other than routine claims for benefits) pending or, to the best knowledge of any Loan Party or any Subsidiary thereof, threatened against any Loan Party or any Subsidiary thereof with respect to any Foreign Pension Plan; (iv) all contributions (including, where applicable, “normal cost”, “special payments” and any other payment in respect of any funding deficiencies or shortfalls) required to have been made by any Loan Party or any Subsidiary thereof to any Foreign Pension Plan have been made within the time required by law or by the terms of such Foreign Pension Plan; (v) no defined benefit Foreign Pension Plan with respect to which any Loan Party or any Subsidiary thereof could have any liability has been terminated or wound-up in whole or in part and no actions or proceedings have been taken or instituted to terminate or wind-up in whole or in part such a defined benefit Foreign Pension Plan; and (vi) no circumstances exist or event has occurred that would reasonably be expected to provide any basis for a Governmental Authority under Applicable Law to take steps to cause the termination or wind-up, in whole or in part, of any Foreign Pension Plan or the institution of proceedings by any Governmental Authority to terminate or wind-up, in whole or in part, any Foreign Pension Plan or to have a trustee or a replacement administrator appointed to administer any Foreign Pension Plan.

(e) The Borrowers are not and will not be using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA, or otherwise) of one or more Benefit Plans with respect to the Borrowers’ entrance into, participation in, administration of and performance of the Loans, the Letters of Credit or the Commitments.

Section 5.13. Subsidiaries; Equity Interests; Loan Parties

. As of the Closing Date and as of the last date such Schedule was required to be updated in accordance with Sections 6.02 and 6.12, the Domestic Borrower has no Subsidiaries other than those specifically disclosed in Part (a) of Schedule 5.13, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are fully paid and non-assessable and are owned by the Subsidiary indicated on and in the amounts specified on Part (a) of Schedule 5.13 free and clear of all Liens except those created under the Collateral Documents. No Loan Party has equity investments in any other corporation or entity other than those specifically disclosed in Part (b) of Schedule 5.13. All of the outstanding Equity Interests in the Domestic Borrower have been validly issued, are fully paid and non-assessable. Set forth on Part (c) of Schedule 5.13 is a complete and accurate list of all Loan Parties, showing as of the Closing Date (as to each Loan Party) the jurisdiction of its incorporation, the address of its principal place of business and its U.S. taxpayer identification number or, in the case of any non-U.S. Loan Party that does not have a U.S. taxpayer identification number, its unique identification number issued to it by the jurisdiction of its incorporation. The copies of the Organization Documents of each Loan Party provided pursuant to Section 4.01(a)(iv) and (v) are true and correct copies of each of the respective documents, each of which is valid and in full force and effect.

Section 5.14. Margin Regulations; Investment Company Act

. (a) Borrowers are not engaged, nor will they engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock. Following the application of the proceeds of each Borrowing or drawing under each Letter of Credit, not more than twenty-five percent (25%) of the value of the assets (either of the Domestic Borrower only or of the Domestic Borrower and its Subsidiaries on a consolidated basis) subject to the provisions of Section 7.01 or Section 7.05 or subject to any restriction contained in any agreement or instrument between a Borrower and any Lender or any Affiliate of any Lender relating to Indebtedness and within the scope of Section 8.01(e) will be margin stock.

(b) None of the Borrowers, any Person Controlling the Borrowers, or any Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

Section 5.15. Disclosure

. The Borrowers have disclosed to the Administrative Agent and the Lenders all agreements, instruments and corporate or other restrictions to which it or any of its Subsidiaries is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No report, financial statement, certificate or other information furnished (whether in writing or orally) by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided* that, with respect to projected financial information, the Borrowers represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

Section 5.16. Compliance with Laws

. Each Loan Party and each Subsidiary thereof is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

Section 5.17. Intellectual Property; Licenses, Etc.

The Domestic Borrower and each of its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, “*IP Rights*”) that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person. To the best knowledge of the Domestic Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Domestic Borrower or any of its Subsidiaries infringes upon any rights held by any other Person. Except as specifically disclosed in Schedule 5.17, no claim or litigation regarding any of the foregoing is pending or, to the best knowledge of the Borrowers, threatened, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.18. Sanctions Concerns and Anti-Corruption Laws.

(a) *Sanctions Concerns.* No Loan Party, nor any Subsidiary, nor, to the knowledge of the Loan Parties and their Subsidiaries, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by one or more individuals or entities that are (i) currently the subject or target of any Sanctions, (ii) included on OFAC’s List of Specially

Designated Nationals or HMT's Consolidated List of Financial Sanctions Targets, or any similar list enforced by any other relevant sanctions authority or (iii) located, organized or resident in a Designated Jurisdiction. The Domestic Borrower and its Subsidiaries have conducted their businesses in compliance in all material respects with all applicable Sanctions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such Sanctions.

(b) *Anti-Corruption Laws.* The Loan Parties and their Subsidiaries have conducted their business in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other applicable anti-corruption legislation in other jurisdictions, and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

Section 5.19. Solvency

. Each Loan Party is, individually and together with its Subsidiaries on a consolidated basis, Solvent.

Section 5.20. Labor Matters

. There are no collective bargaining agreements or Multiemployer Plans covering the employees of the Domestic Borrower or any of its Subsidiaries as of the Closing Date and neither the Domestic Borrower nor any Subsidiary has suffered any strikes, walkouts, work stoppages or other material labor difficulty within the last five years.

Section 5.21. Collateral Documents

. The provisions of the Collateral Documents are effective to create in favor of the Administrative Agent for the benefit of the Secured Parties a legal, valid and enforceable first priority Lien (subject to Liens permitted by Section 7.01) on all right, title and interest of the respective Loan Parties in the Collateral described therein. Except for filings completed prior to the Closing Date and as contemplated hereby and by the Collateral Documents, no filing or other action will be necessary to perfect or protect such Liens.

Section 5.22. European Insolvency Regulation

. Each of the Foreign Borrower and Diodes Zetex Limited are incorporated in a jurisdiction where Regulation (EU) No 2015/848 of the European Parliament and of the Council on insolvency proceedings of 20 May 2015, as it forms part of retained EU law as defined in the European Union (Withdrawal) Act 2018 as amended from time to time (the "*Insolvency Regulation*") applies, its center of main interest (as that term is used in section 3(1) of the Insolvency Regulation) is situated in its jurisdiction of incorporation, and it has no establishment (as defined in section 2(10) of the Insolvency Regulation) in any other jurisdiction.

Section 5.23. Beneficial Ownership Certificate

. The information included in the Beneficial Ownership Certification most recently provided to each Lender, if applicable, is true and correct in all respects.

Section 5.24. Lite-On Acquisition Agreement. As of the Lite-On Acquisition Date, the Domestic Borrower has delivered to the Administrative Agent a complete and correct copy of the Lite-On Acquisition Agreement (including all schedules, exhibits, amendments, supplements, modifications and assignments thereof and, to the extent requested by the Administrative Agent, all other material documents delivered pursuant thereto or in connection therewith), and each other Lite-On Acquisition Related Document. As of the Lite-On Acquisition Date, neither the Domestic Borrower nor any direct or indirect parent or Subsidiary of the Domestic Borrower is in default in the performance or compliance

with any material provisions thereof. The Lite-On Acquisition Agreement is in full force and effect as of the Lite-On Acquisition Date and has not been terminated, rescinded or withdrawn. As of the Lite-On Acquisition Date, all requisite material approvals by Governmental Authorities having jurisdiction over each of the parties to the Lite-On Acquisition Agreement, with respect to the transactions contemplated thereby, have been obtained, and no such approvals impose any conditions to the consummation of the transactions contemplated by the Lite-On Acquisition Agreement or to the conduct by the Domestic Borrower of its business thereafter which have not been satisfied or fulfilled, other than those conditions imposed by a Governmental Authority that are intended to be satisfied, fulfilled or otherwise complied with subsequent to the consummation of the transactions contemplated by the Lite-On Acquisition Agreement. As of the Lite-On Acquisition Date, each of the representations and warranties given by any Loan Party in the Lite-On Acquisition Agreement and each other Lite-On Acquisition Document is true and correct in all material respects.

Section 5.25. *Representations as to Foreign Loan Parties.* Each of the Domestic Borrower and each Foreign Loan Party represents and warrants to the Administrative Agent and the Lenders that:

(a) Such Foreign Loan Party is subject to civil and commercial Laws with respect to its obligations under this Agreement and the other Loan Documents to which it is a party (collectively as to such Foreign Loan Party, the “*Applicable Foreign Loan Party Documents*”), and the execution, delivery and performance by such Foreign Loan Party of the Applicable Foreign Loan Party Documents constitute and will constitute private and commercial acts and not public or governmental acts. Neither such Foreign Loan Party nor any of its property has any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) under the laws of the jurisdiction in which such Foreign Loan Party is organized and existing in respect of its obligations under the Applicable Foreign Loan Party Documents.

(b) The Applicable Foreign Loan Party Documents are in proper legal form under the Laws of the jurisdiction in which such Foreign Loan Party is organized and existing for the enforcement thereof against such Foreign Loan Party under the Laws of such jurisdiction, and to ensure the legality, validity, enforceability, priority or admissibility in evidence of the Applicable Foreign Loan Party Documents. It is not necessary to ensure the legality, validity, enforceability, priority or admissibility in evidence of the Applicable Foreign Loan Party Documents that the Applicable Foreign Loan Party Documents be filed, registered or recorded with, or executed or notarized before, any court or other authority in the jurisdiction in which such Foreign Loan Party is organized and existing or that any registration charge or stamp or similar tax be paid on or in respect of the Applicable Foreign Loan Party Documents or any other document, except for (i) any such filing, registration, recording, execution or notarization as has been made or will be made in accordance with the provisions of the relevant Foreign Security Agreements or is not required to be made until the Applicable Foreign Loan Party Document or any other document is sought to be enforced and (ii) any charge or tax as has been timely paid.

(c) There is no tax, levy, impost, duty, fee, assessment or other governmental charge, or any deduction or withholding, imposed by any Governmental Authority in or of the jurisdiction in which such Foreign Loan Party is organized and existing either (i) on or by virtue of the execution or delivery of the Applicable Foreign Loan Party Documents or (ii) on any payment to be made by such Foreign Loan Party pursuant to the Applicable Foreign Loan Party Documents, except as has been disclosed to the Administrative Agent. It is not required under the Laws of the jurisdiction in which the Foreign Borrower

is incorporated or resident or at the address specified for the Foreign Borrower on Schedule 11.02 to make any deduction for or on account of Tax from any payment it may make under any Loan Documents.

(d) The execution, delivery and performance of the Applicable Foreign Loan Party Documents executed by such Foreign Loan Party are, under applicable foreign exchange control regulations of the jurisdiction in which such Foreign Loan Party is organized and existing, not subject to any notification or authorization except (i) such as have been made or obtained or (ii) such as cannot be made or obtained until a later date (provided that any notification or authorization described in clause (ii) shall be made or obtained as soon as is reasonably practicable).

(e) The choice of the law of the State of New York as the governing law of the Loan Documents will be recognized and enforced in the Foreign Borrower's jurisdiction of incorporation and any judgment obtained in New York in relation to a Loan Document will be recognized and enforced in the Foreign Borrower's jurisdiction of incorporation.

(f) Under the Laws of the jurisdiction in which the Foreign Borrower is incorporated it is not necessary that the Loan Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Loan Documents or the transactions contemplated by the Loan Documents.

Section 5.26. Covered Entities. No Loan Party is a Covered Entity.

ARTICLE VI

AFFIRMATIVE COVENANTS

Each of the Loan Parties hereby covenants and agrees that on the Closing Date and thereafter until the Facility Termination Date, each Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, 6.03 and 6.11) cause each Subsidiary to:

Section 6.01. Financial Statements

. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) as soon as available, but in any event within 90 days after the end of each fiscal year of the Domestic Borrower, a consolidated and consolidating balance sheet of the Domestic Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated and consolidating statements of income or operations, changes in shareholders' equity, and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, such consolidated statements to be audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Required Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit;

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Domestic Borrower, a consolidated and consolidating balance sheet of the Domestic Borrower and its Subsidiaries as at the end of such fiscal quarter, the related consolidated and consolidating statements of income or operations for such fiscal quarter and for the portion of the Domestic Borrower's fiscal year then ended, and the related consolidated and consolidating statements of changes in shareholders' equity, and cash flows for the portion of the Domestic Borrower's fiscal year then ended, in each case setting forth in comparative form, as applicable, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, such consolidated statements to be certified by the chief executive officer, chief financial officer, treasurer or controller of the Domestic Borrower as fairly presenting the financial condition, results of operations, shareholders' equity and cash flows of the Domestic Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes and such consolidating statements to be certified by the chief executive officer, chief financial officer, treasurer or controller of the Domestic Borrower to the effect that such statements are fairly stated in all material respects when considered in relation to the consolidated financial statements of the Domestic Borrower and its Subsidiaries; and

(c) as soon as available, but in any event at least 45 days before the end of each fiscal year of the Domestic Borrower, an annual business plan and budget of the Domestic Borrower and its Subsidiaries on a consolidated basis, including forecasts prepared by management of the Domestic Borrower, in form satisfactory to the Administrative Agent and the Required Lenders, of consolidated balance sheets and statements of income or operations and cash flows of the Domestic Borrower and its Subsidiaries on a quarterly basis for the immediately following fiscal year.

Section 6.02. Certificates; Other Information

. Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of the Domestic Borrower (which delivery may, unless Administrative Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof all purposes);

(b) promptly after any request by the Administrative Agent or any Lender, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of the Domestic Borrower by independent accountants in connection with the accounts or books of the Domestic Borrower or any Subsidiary, or any audit of any of them;

(c) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of the Domestic Borrower, and copies of all annual, regular, periodic and special reports and registration statements which the Domestic Borrower may file or be required to file with the SEC under

Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(d) promptly after the furnishing thereof, copies of any statement or report furnished to any holder of debt securities of any Loan Party or any Subsidiary thereof pursuant to the terms of any indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Lenders pursuant to Section 6.01 or any other clause of this Section 6.02;

(e) promptly, and in any event within fifteen Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Loan Party or any Subsidiary thereof;

(f) promptly, such additional information regarding any Foreign Pension Plans, as the Administrative Agent or any Lender may from time to time reasonably request;

(g) promptly, such additional information regarding the business, financial or corporate affairs of any Loan Party or any Subsidiary thereof, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request;

(h) promptly after the assertion or occurrence thereof, notice of any action or proceeding against or of any noncompliance by any Loan Party or any of its Subsidiaries with any Environmental Law or Environmental Permit that could reasonably be expected to have a Material Adverse Effect;

(i) as soon as available, but in any event within 30 days after the establishment thereof, a report supplementing Schedule 5.12(d) setting forth each new Pension Plan, Foreign Pension Plan or Multiemployer Plan for which any Borrower, any Subsidiary or any ERISA Affiliate could have liability as may be necessary for such Schedule to be accurate and complete, each such report to be signed by a Responsible Officer of the Domestic Borrower and to be in a form reasonably satisfactory to the Administrative Agent;

(j) promptly following any request therefor, information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the Act;

(k) not later than five (5) Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of all material notices, requests and other documents (including amendments, waivers and other modifications) so received under or pursuant to any Qualified Securitization Transaction, any Permitted Receivables Facility or any instrument, indenture, loan or credit or similar agreement and, from time to time upon request by the Administrative Agent, such information and reports regarding any Qualified Securitization Transaction, any Permitted

Receivables Facility and such instruments, indentures and loan and credit and similar agreements as the Administrative Agent may reasonably request;

(l) following the Lite-On Acquisition Date, not later than five (5) Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of all material notices, requests and other documents (including amendments, waivers and other modifications) so received under or pursuant to any Lite-On Acquisition Related Document and, from time to time upon request by the Administrative Agent, such information and reports regarding the Lite-On Acquisition Related Documents as the Administrative Agent may reasonably request; and

(m) to the extent any Loan Party qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, an updated Beneficial Ownership Certification promptly following any change in the information provided in the Beneficial Ownership Certification delivered to any Lender in relation to such Loan Party that would result in a change to the list of beneficial owners identified in such certification.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(c) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Domestic Borrower posts such documents, or provides a link thereto on the Domestic Borrower’s website on the Internet at the website address listed on Schedule 11.02; or (ii) on which such documents are posted on the Domestic Borrower’s behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); *provided* that: (A) the Domestic Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender upon its request to the Domestic Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (B) the Domestic Borrower shall notify the Administrative Agent and each Lender (by facsimile or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (*i.e.*, soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Domestic Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Each Borrower hereby acknowledges that (a) the Administrative Agent and/or any Arranger may, but shall not be obligated to, make available to the Lenders and the L/C Issuers materials and/or information provided by or on behalf of the Borrowers hereunder (collectively, “*Borrower Materials*”) by posting the Borrower Materials on Debt Domain, IntraLinks, Syndtrak, ClearPar or a substantially similar electronic transmission system (the “*Platform*”) and (b) certain of the Lenders (each, a “*Public Lender*”) may have personnel who do not wish to receive material non-public information with respect to any of the Borrowers or their respective Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons’ securities. Each Borrower hereby agrees that so long as such Borrower is the issuer of any outstanding debt or Equity Interests that are registered or issued pursuant to a private offering or is actively contemplating issuing any such securities it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to Public Lenders and that (w) all such

Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," such Borrower shall be deemed to have authorized the Administrative Agent, any Affiliate thereof, the Arrangers, the L/C Issuers and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive or proprietary) with respect to such Borrower or its securities for purposes of United States Federal and state securities laws (*provided* that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 11.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information;" and (z) the Administrative Agent and any Affiliate thereof and any Arranger shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information." Notwithstanding the foregoing, the Borrowers shall be under no obligation to mark any Borrower Materials "PUBLIC."

Section 6.03. Notices

. Promptly notify the Administrative Agent and each Lender:

- (a) of the occurrence of any Default;
- (b) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of the Domestic Borrower or any Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between the Domestic Borrower or any Subsidiary and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting the Domestic Borrower or any Subsidiary, including pursuant to any applicable Environmental Laws;
- (c) of the occurrence of any ERISA Event;
- (d) of any material change in accounting policies or financial reporting practices by the Domestic Borrower or any Subsidiary, including any determination by the Domestic Borrower referred to in Section 2.10(b); and
- (e) of any (i) occurrence of any Disposition or Involuntary Disposition of property or assets for which the Borrowers are required to make a mandatory prepayment pursuant to Section 2.05(b)(i), and (ii) receipt of any Extraordinary Receipt for which the Borrowers are required to make a mandatory prepayment pursuant to Section 2.05(b)(ii).

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of the Domestic Borrower setting forth details of the occurrence referred to therein and stating what action the Domestic Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

Section 6.04. Payment of Obligations

. Pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by

appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the applicable Borrower or such Subsidiary; (b) all lawful claims which, if unpaid, would by law become a Lien upon its property; and (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness.

Section 6.05. Preservation of Existence, Etc.

(a) Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization except in a transaction permitted by Section 7.04 or 7.05; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

Section 6.06. Maintenance of Properties

(a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; and (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

Section 6.07. Maintenance of Insurance

Maintain with financially sound and reputable insurance companies not Affiliates of the Domestic Borrower, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons and providing for not less than 30 days' prior notice to the Administrative Agent of termination, lapse or cancellation of such insurance.

Section 6.08. Compliance with Laws

Comply in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

Section 6.09. Books and Records

(a) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Domestic Borrower or such Subsidiary, as the case may be; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Domestic Borrower or such Subsidiary, as the case may be.

Section 6.10. Inspection Rights

Permit representatives and independent contractors of the Administrative Agent (on behalf of itself and the Lenders) to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Borrowers and at such reasonable times during normal business hours (not more than twice per calendar year in the aggregate for all such visits and inspections), upon

reasonable advance notice to the Domestic Borrower; *provided* that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Domestic Borrower as often as may be reasonably desired at any time during normal business hours and without advance notice.

Section 6.11. Use of Proceeds

. Use the proceeds of the Credit Extensions (i) to refinance all outstanding Indebtedness under the Existing Credit Agreement, (ii) for working capital, (iii) for capital expenditures, (iv) with respect to the Acquisition Draw Term Facility, solely to finance currency swap transactions by the Borrowers and their Subsidiaries in advance of, and as a portion of, the acquisition consideration for the Lite-On Acquisition and to pay fees, costs and expenses incurred by the Borrowers and their Subsidiaries in connection with the consummation of the Transactions and (v) for general corporate purposes not in contravention of any Law or of any Loan Document, including, without limitation, financing permitted acquisitions.

Section 6.12. Covenant to Guarantee Obligations and Give Security.

(a) *Additional Domestic Subsidiaries.* Notify the Administrative Agent of the creation or acquisition of any Domestic Subsidiary (including, without limitation, upon the formation of any Domestic Subsidiary that is a Divided LLC) and promptly thereafter (and in any event within thirty (30) days after such creation or acquisition or such later time as may be determined by the Administrative Agent in its sole discretion), other than with respect to an Excluded Subsidiary or an Excluded Securitization Subsidiary, cause such Domestic Subsidiary, and cause each direct and indirect parent of such Domestic Subsidiary (if it has not already done so), to (i) become a Global Guarantor by delivering to the Administrative Agent a duly executed joinder agreement or such other document as the Administrative Agent shall deem appropriate for such purpose, (ii) grant a security interest in all Collateral (subject to the exceptions specified in the Collateral Agreement) owned by such Subsidiary by delivering to the Administrative Agent a duly executed supplement to each Collateral Document or such other document as the Administrative Agent shall deem appropriate for such purpose and comply with the terms of each Collateral Document, (iii) deliver to the Administrative Agent such documents and certificates referred to in Section 4.01 as may be reasonably requested by the Administrative Agent, (iv) deliver to the Administrative Agent such original certificates representing the Pledged Equity or other certificates of such Person accompanied by undated irrevocable stock powers executed in blank, (v) deliver to the Administrative Agent such updated Schedules to the Loan Documents as requested by the Administrative Agent with respect to such Person, and (vi) deliver to the Administrative Agent such other documents as may be reasonably requested by the Administrative Agent, all in form, content and scope reasonably satisfactory to the Administrative Agent.

(b) Notify the Administrative Agent at the time that any Person becomes a First-Tier Foreign Subsidiary of any Domestic Loan Party, and at the request of the Administrative Agent, promptly thereafter (and in any event within forty-five (45) days after such request or such later time as may be determined by the Administrative Agent in its sole discretion), cause (i) the applicable Domestic Loan Party to deliver to the Administrative Agent Collateral Documents pledging (A) one hundred percent (100%) of the total outstanding non-voting capital stock of such new Foreign Subsidiary to secure the Obligations, (B) one hundred percent (100%) of the total outstanding voting stock of such new Foreign Subsidiary to secure the Foreign Obligations and (C) (1) if the Domestic Loan Party holds more than 65% of the total Voting Stock of such new Foreign Subsidiary, then up to 65% of the total voting stock thereof

to secure the Obligations (to the extent the pledge of a greater percentage would result in adverse tax consequences to the Domestic Borrower) or (2) if the Domestic Loan Party holds less than 65% of the total Voting Stock of such new Foreign Subsidiary, the aggregate of all such voting stock thereof owned or held by the Domestic Loan Party to secure the Obligations, and a consent thereto executed by such new Foreign Subsidiary (including, without limitation, if applicable, original stock certificates (or the equivalent thereof pursuant to the applicable Laws and practices of any relevant foreign jurisdiction) evidencing such capital stock of such new Foreign Subsidiary as is being pledged, together with an appropriate undated stock power for each certificate duly executed in blank by the registered owner thereof), (ii) such Person to deliver to the Administrative Agent such documents and certificates as may be reasonably requested by the Administrative Agent, (iii) the applicable Domestic Loan Party to deliver to the Administrative Agent such updated Schedules to the Loan Documents as reasonably requested by the Administrative Agent with regard to such Person and (iv) such Person to deliver to the Administrative Agent such other documents as may be reasonably requested by the Administrative Agent, all in form, content and scope satisfactory to the Administrative Agent.

(c) *Cost.* Notwithstanding the foregoing, the provisions of this Section 6.12 shall not apply to assets as to which the Administrative Agent and the Domestic Borrower shall reasonably determine that the costs and burdens of obtaining a security interest therein or perfection thereof outweigh the value of the security afforded thereby.

Section 6.13. Compliance with Environmental Laws

. Comply, and cause all lessees and other Persons operating or occupying its properties to comply, in all material respects, with all applicable Environmental Laws and Environmental Permits; obtain and renew all Environmental Permits necessary for its operations and properties; and conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Hazardous Materials from any of its properties, in accordance with the requirements of all Environmental Laws; *provided, however*, that neither the Domestic Borrower nor any of its Subsidiaries shall be required to undertake any such cleanup, removal, remedial or other action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

Section 6.14. Further Assurances

. Promptly upon request by the Administrative Agent, or any Lender through the Administrative Agent, (a) correct any material defect or error that may be discovered in any Loan Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Loan Documents, (ii) to the fullest extent permitted by Applicable Law and consistent with the terms of this Agreement and the other Loan Documents, subject any Loan Party's or any of its Subsidiaries' properties, assets, rights or interests to the Liens now or hereafter intended to be covered by any of the Collateral Documents, (iii) perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and any of the Liens intended to be created thereunder and (iv) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or under any other instrument executed in connection with any

Loan Document to which any Loan Party or any of its Subsidiaries is or is to be a party, and cause each of its Subsidiaries to do so.

Section 6.15. Material Contracts

. Perform and observe all the terms and provisions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect, enforce each such Material Contract in accordance with its terms, take all such action to such end as may be from time to time requested by the Administrative Agent and, upon request of the Administrative Agent, make to each other party to each such Material Contract such demands and requests for information and reports or for action as any Loan Party or any of its Subsidiaries is entitled to make under such Material Contract, and cause each of its Subsidiaries to do so, except, in any case, where the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

Section 6.16. Post-Closing Matters

. Execute and deliver the documents and complete the tasks set forth on Schedule 6.16, in each case within the time limits specified on such schedule.

Section 6.17. Anti-Corruption Laws

. Conduct its business in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other applicable anti-corruption legislation in other jurisdictions and with all applicable Sanctions, and maintain policies and procedures designed to promote and achieve compliance with such laws and Sanctions.

ARTICLE VII

NEGATIVE COVENANTS

Each of the Loan Parties hereby covenants and agrees that on the Closing Date and thereafter until the Facility Termination Date, the Borrowers shall not, nor shall they permit any Subsidiary to, directly or indirectly:

Section 7.01. Liens

. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, or sign or file or suffer to exist under the Uniform Commercial Code of any jurisdiction a financing statement that names the Domestic Borrower or any of its Subsidiaries as debtor, or assign any accounts or other right to receive income, other than the following (the “Permitted Liens”):

(a) Liens pursuant to any Loan Document;

(b) Liens securing the Additional Secured Obligations;

(c) Liens existing on the date hereof and listed on Schedule 5.08(b) and any renewals or extensions thereof; *provided* that (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased except as contemplated by Section 7.02(d), (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.02(d);

(d) Liens for taxes not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(e) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person;

(f) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;

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

(h) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;

(i) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h);

(j) Liens securing Indebtedness permitted under Section 7.02(f); *provided* that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition;

(k) reserved;

(l) Liens arising under the Diodes Zetex Pension Scheme Legal Charge;

(m) Liens arising in connection with Indebtedness permitted under Section 7.02(h); *provided* that such Liens do not at any time encumber any property other than the property financed by such Indebtedness;

(n) Liens not otherwise permitted under this Section 7.01 securing Indebtedness outstanding in an aggregate principal amount not to exceed \$25,000,000; *provided* that no Lien shall extend to or cover any Collateral or any Material Real Property;

(o) Liens securing Indebtedness permitted under Section 7.03(c)(v); *provided* that such Liens do not at any time encumber any property other than the property of TF Semiconductor Solutions Inc.;

(p) bankers' Liens, rights of setoff and other similar Liens existing solely with respect to cash and Cash Equivalents on deposit in one or more accounts maintained by the Borrowers or any of their Subsidiaries with any Lender, in each case in the ordinary course of business in favor of the bank or banks with which such accounts are maintained, securing solely the customary amounts owing to such bank with respect to cash management and operating account arrangements; provided, that in no case shall any such Liens secure (either directly or indirectly) the repayment of any Indebtedness;

(q) Liens securing Indebtedness permitted under Section 7.02(n); *provided* that such Liens do not at any time encumber any property other than the property of Lite-On;

(r) Liens with respect to those Securitization Assets and related rights and assets subject to purchase pursuant to any Qualified Securitization Transaction;

(s) Liens on accounts receivable of Diodes Taiwan SARL or any Subsidiary of the Domestic Borrower organized under the laws of a jurisdiction in Asia that has entered into a Permitted Receivables Facility securing factoring, sales, pledged assignments, transfers or other dispositions of such accounts receivable pursuant to a Permitted Receivables Facility entered into by Diodes Taiwan SARL or such Subsidiary, as applicable;

(t) Liens securing Indebtedness permitted under Section 7.02(s); *provided* that such Liens shall only encumber the interest bearing deposit account held at HSBC Bank (China) Company Limited, Shanghai Branch designated as the cash collateral account for the Chengdu Letter of Credit Facility and used solely for that purpose; and

(u) Liens securing the Diodes Hong Kong HSBC Indebtedness permitted under Section 7.02(t); *provided* that such Lien shall consist solely of the Chengdu Letter of Credit.

For purposes of compliance with this Section 7.01: (x) if any Lien meets the criteria set forth in more than one of clauses (a) through (u) of this Section 7.01 then the Borrowers may classify or reclassify such Lien in any manner that complies with this Section 7.01 and such Lien shall be treated as having been permitted pursuant to only one of the clauses of this Section 7.01; and (y) any obligation secured by a Lien meeting the criteria set forth in more than one of clauses (a) through (u) of this Section 7.01 may be divided and classified and reclassified among more than one of the clauses of this Section 7.01.

Section 7.02. Indebtedness

. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) obligations (contingent or otherwise) existing or arising under any Swap Contract; *provided* that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with fluctuations in interest rates or foreign exchange rates and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party;

(b) Indebtedness under the Loan Documents;

(c) Indebtedness among Borrowers and Loan Parties;

(d) Indebtedness outstanding on the date hereof and listed on Schedule 7.02 and any refinancings, refundings, renewals or extensions thereof; *provided* that (i) the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder and (ii) the terms relating to principal amount, amortization, maturity, collateral (if any) and subordination (if any), and other material terms taken as a whole, of any such refinancing, refunding, renewing or extending Indebtedness, and of any agreement entered into and of any instrument issued in connection therewith, are no less favorable in any material respect to the Loan Parties or the Lenders than the terms of any agreement or instrument governing the Indebtedness being refinanced, refunded, renewed or extended and the interest rate applicable to any such refinancing, refunding, renewing or extending Indebtedness does not exceed the then applicable market interest rate;

(e) Guarantees of the Domestic Borrower or any Subsidiary in respect of Indebtedness of the Domestic Borrower or any wholly-owned Subsidiary thereof otherwise permitted under Sections 7.02(a), (d), (f), (g) or (k); *provided* that, solely in the case of clause (g), such Guarantee may only be provided to the extent such Indebtedness is unsecured and the provider of such Indebtedness is a Lender;

(f) Indebtedness in respect of Capitalized Leases, Synthetic Lease Obligations and purchase money obligations for fixed or capital assets within the limitations set forth in Section 7.01(j); *provided, however*, that the aggregate amount of all such Indebtedness at any one time outstanding shall not exceed \$25,000,000;

(g) Indebtedness of Subsidiaries (inclusive of the Indebtedness of such Subsidiaries set forth on Schedule 7.02, but exclusive of the Lite-On Indebtedness, the Chengdu Letter of Credit Facility and the Diodes Hong Kong HSBC Indebtedness) organized under the laws of a jurisdiction in Asia and of Diodes Taiwan SARL, in an aggregate amount not to exceed \$100,000,000 at any time, all of which may be refinanced, amended or replaced from time to time; *provided* that the aggregate amount of such Indebtedness does not exceed \$100,000,000;

(h) Indebtedness consisting of the deferred purchase price of equipment that shall be paid for within six months after delivery, subject to such equipment being qualified after delivery;

(i) Indebtedness of Subsidiaries incurred by reason of Investments in such Subsidiaries permitted under Sections 7.03(c)(ii) (*provided* that any such Indebtedness made to any Loan Party by a Subsidiary that is not a Loan Party shall be subject to subordination provisions reasonably acceptable to the Administrative Agent which subordination provisions will permit the payment of regularly scheduled payments of interest and principal so long as no Default or Event of Default has occurred and is continuing), (iii), (iv), (v) and (vi) (“*Intercompany Debt*”);

(j) Indebtedness arising under the Diodes Zetex Pension Scheme, including the Diodes Zetex Pension Scheme Guarantee;

(k) Indebtedness incurred under or in connection with Secured Cash Management Agreements, Indebtedness arising from the endorsement of instruments or other payment items for deposit and Indebtedness in respect of netting services or overdraft protection or otherwise in connection with deposit accounts or securities accounts maintained with financial institutions, in each case, incurred in the ordinary course of business that are promptly repaid;

(l) Guarantees of the Domestic Borrower or any other Loan Party in respect of the obligations of Subsidiaries of the Domestic Borrower to pay the deferred purchase price of property or services (regardless of whether such trade account payables constitute Indebtedness under clause (d) of the definition thereof in Section 1.01); *provided* that the aggregate amount of such trade account payables Guaranteed pursuant to this clause (l) shall not exceed \$50,000,000 in the aggregate outstanding at any time;

(m) unsecured Indebtedness in an aggregate principal amount not to exceed \$25,000,000 at any time outstanding;

(n) the Lite-On Indebtedness, and any refinancings, refundings, renewals or extensions thereof; *provided* that the aggregate principal amount of such Lite-On Indebtedness (after giving effect to any repayment of term loan facilities thereunder or permanent reduction in revolving facilities thereunder) is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder;

(o) the unsecured Guarantee of the Domestic Borrower in respect of the Lite-On Indebtedness;

(p) unsecured Indebtedness of the Domestic Borrower owing to any wholly-owned Subsidiary that is not a Loan Party; *provided, however*, that the aggregate amount of all such Indebtedness at any one time outstanding shall not exceed \$300,000,000 and provided further that no payment on such Indebtedness may be made upon the occurrence and during the continuance of a Default or Event of Default;

(q) Indebtedness incurred by any Excluded Securitization Subsidiary in connection with any Qualified Securitization Transaction provided that such Indebtedness is non-recourse to any Person other than the Excluded Securitization Subsidiary; *provided, however*, that the aggregate amount of all such Indebtedness at any one time outstanding, together with the aggregate amount of all Indebtedness incurred in connection with any Permitted Receivables Facilities permitted pursuant to Section 7.02(r) below, shall not exceed \$150,000,000;

(r) any Permitted Receivables Facility; *provided, however*, that the aggregate amount of all such Indebtedness at any one time outstanding, together with the aggregate amount

of all Indebtedness incurred in connection with any Qualified Securitization Transactions permitted pursuant to Section 7.02(q) above, shall not exceed \$150,000,000;

- (s) the Chengdu Letter of Credit Facility and the Chengdu Letter of Credit issued thereunder; and
- (t) the Diodes Hong Kong HSBC Indebtedness.

For purposes of compliance with this Section 7.02: (x) if any item meets the criteria set forth in more than one of clauses (a) through (t) of this Section 7.02 then the Borrowers may classify or reclassify such item in any manner that complies with this Section 7.02 and such item shall be treated as having been permitted pursuant to only one of the clauses of this Section 7.02; and (y) any item meeting the criteria set forth in more than one of clauses (a) through (t) of this Section 7.02 may be divided and classified and reclassified among more than one of the clauses of this Section 7.02.

Section 7.03. Investments

. Make or hold any Investments, except:

- (a) Investments held by the Domestic Borrower and its Subsidiaries in the form of Cash Equivalents;
- (b) advances to officers, directors and employees of the Domestic Borrower and Subsidiaries for travel, entertainment, relocation and analogous ordinary business purposes;
- (c) (i) Investments by the Domestic Borrower and its Subsidiaries in their respective Subsidiaries outstanding on the date hereof, (ii) additional Investments by the Domestic Borrower and its Subsidiaries in Loan Parties, (iii) additional Investments by Subsidiaries of the Domestic Borrower that are not Loan Parties in other Subsidiaries that are not Loan Parties, (iv) so long as no Default has occurred and is continuing or would result from such Investment, additional Investments by the Loan Parties in wholly-owned Subsidiaries that are not Loan Parties in an aggregate amount invested from the date hereof not to exceed \$50,000,000, (v) the TFSS Investment and (vi) the Domestic Borrower may make Investments in the form of intercompany loans to wholly-owned Subsidiaries of the Domestic Borrower that are not Loan Parties in an aggregate amount for all such intercompany loans not to exceed \$300,000,000 at any one time outstanding; *provided* that (A) no such loans may be made if a Default or Event of Default has occurred and is continuing, (B) all such intercompany loans shall be made on a demand basis and (C) a copy of such intercompany loan agreement shall be provided to the Administrative Agent within five (5) Business Days of the establishment of each such loan (or the closing of this Agreement to the extent such loan is already in existence);
- (d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;
- (e) Guarantees permitted by Section 7.02;

(f) Investments existing on the date hereof (other than those referred to in Section 7.03(c)(i)) and set forth on Schedule 5.08(e);

(g) the purchase or other acquisition of all of the Equity Interests in, or all or substantially all of the property of, any Person that, upon the consummation thereof, will be wholly-owned directly by the Domestic Borrower or one or more of its wholly-owned Subsidiaries (including as a result of a merger or consolidation); *provided* that, with respect to each purchase or other acquisition made pursuant to this Section 7.03(g):

(i) any such newly-created or acquired Subsidiary shall comply with the requirements of Section 6.12 if and to the extent applicable;

(ii) the lines of business of the Person to be (or the property of which is to be) so purchased or otherwise acquired shall be substantially the same lines of business as one or more of the principal businesses of the Domestic Borrower and its Subsidiaries in the ordinary course;

(iii) such purchase or other acquisition shall not include or result in any contingent liabilities that could reasonably be expected to be material to the business, financial condition or operations of the Domestic Borrower and its Subsidiaries, taken as a whole (as determined in good faith by the board of directors (or the persons performing similar functions) of the Domestic Borrower or such Subsidiary if the board of directors is otherwise approving such transaction and, in each other case, by a Responsible Officer);

(iv) immediately before and immediately after giving pro forma effect to any such purchase or other acquisition, (A) no Default shall have occurred and be continuing, (B) the Domestic Borrower and its Subsidiaries shall be in pro forma compliance with the financial covenants set forth in Section 7.11 (such calculation to be determined on the basis of the financial information most recently delivered to the Administrative Agent and the Lenders pursuant to Section 6.01(a) or (b) as though such purchase or other acquisition had been consummated as of the first day of the fiscal period covered thereby) and (C) evidence satisfactory to the Administrative Agent that the Borrowers have availability under the Revolving Credit Facility plus unrestricted cash of the Borrowers in an aggregate amount of at least \$50,000,000; and

(v) the Domestic Borrower shall have delivered to the Administrative Agent and each Lender, at least five Business Days prior to the date on which any such purchase or other acquisition is to be consummated, a certificate of a Responsible Officer, in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders, certifying that all of the requirements set forth in this Section 7.03(g) have been satisfied or will be satisfied on or prior to the consummation of such purchase or other acquisition;

(h) other Investments not exceeding the sum of (i) \$25,000,000 in the aggregate in any fiscal year of the Domestic Borrower less (ii) all amounts paid by the Domestic Borrower or

any other Loan Party in such fiscal year of the Domestic Borrower under Guarantees permitted under Section 7.02(l);

(i) subject to the satisfaction of the Lite-On Acquisition Consent Conditions, the Lite-On Acquisition, which shall be funded by the borrowing of the Acquisition Draw Term Borrowings by the Domestic Borrower and the investment by the Domestic Borrower of the proceeds thereof in the Foreign Borrower, which shall invest such proceeds in Diodes Taiwan SARL, which shall in turn invest such proceeds in Diodes Technologies Taiwan;

(j) Investments in an Excluded Securitization Subsidiary in connection with a sale of Securitization Assets to such Excluded Securitization Subsidiary pursuant to a Qualified Securitization Transaction or any repurchase obligation in connection therewith;

(k) Investments consisting of Indebtedness permitted by Section 7.02(s) and Section 7.02(t); and

(l) other Investments (not otherwise referenced in the preceding clauses (a) through (k)), not exceeding \$30,000,000 in the aggregate outstanding at any time; *provided* that (i) no Default has occurred and is continuing or would result from such Investment and (ii) any Investments made pursuant to this Section 7.03(l) are pledged as Collateral over which the Administrative Agent has a first priority security interest contemporaneously with the making of any such Investment.

For purposes of compliance with this Section 7.03: (x) if any Investment or Acquisition meets the criteria set forth in more than one of clauses (a) through (l) of this Section 7.03 then the Borrowers may classify or reclassify such Investment or Acquisition in any manner that complies with this Section 7.03 and such Investment or Acquisition shall be treated as having been permitted pursuant to only one of the clauses of this Section 7.03; and (y) any Investment or Acquisition meeting the criteria set forth in more than one of clauses (a) through (l) of this Section 7.03 may be divided and classified and reclassified among more than one of the clauses of this Section 7.03.

Section 7.04. Fundamental Changes

. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person (including, in each case, pursuant to a Division), except that, so long as no Default exists or would result therefrom:

(a) subject to Section 7.04(e), any Subsidiary (other than the Foreign Borrower) may merge with (i) the Domestic Borrower; *provided* that the Domestic Borrower shall be the continuing or surviving Person, (ii) the Foreign Borrower; *provided* that the Foreign Borrower shall be the continuing or surviving Person or (iii) any one or more other Subsidiaries (other than the Foreign Borrower); *provided* that when (x) any Loan Party is merging with another Subsidiary, such Loan Party shall be the continuing or surviving Person or the continuing or surviving Person shall thereupon become a Loan Party and (y) any Domestic Subsidiary is merging with another Subsidiary, such Domestic Subsidiary shall be the continuing or surviving Person;

(b) any Loan Party may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Domestic Borrower or to another Loan Party;

(c) any Subsidiary that is not a Loan Party may dispose of all or substantially all its assets (including any Disposition that is in the nature of a liquidation) to (i) another Subsidiary that is not a Loan Party or (ii) to a Loan Party;

(d) in connection with any acquisition permitted under Section 7.03, any Subsidiary of the Domestic Borrower may merge into or consolidate with any other Person or permit any other Person to merge into or consolidate with it; *provided* that (i) the Person surviving such merger shall be a wholly-owned Subsidiary of the Domestic Borrower, (ii) in the case of any such merger involving the Foreign Borrower, the Foreign Borrower shall be the surviving Person, and (iii) in the case of any such merger to which any Loan Party (other than the Foreign Borrower) is a party, such Loan Party is the surviving Person; and

(e) so long as no Default has occurred and is continuing or would result therefrom, any Subsidiary of the Domestic Borrower may merge into or consolidate with any other Person or permit any other Person to merge into or consolidate with it; *provided, however*, that in each case, immediately after giving effect thereto (i) in the case of any such merger to which the Foreign Borrower is a party, the Foreign Borrower is the surviving corporation and (ii) in the case of any such merger to which any Loan Party (other than the Foreign Borrower) is a party, such Loan Party is the surviving corporation.

Section 7.05. Dispositions

. Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of inventory in the ordinary course of business;

(c) Dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(d) Dispositions of property by any Subsidiary to the Domestic Borrower or to a wholly-owned Subsidiary; *provided* that if the transferor of such property is a Guarantor, the transferee thereof must either be a Borrower or a Guarantor;

(e) Dispositions permitted by Section 7.04;

(f) Dispositions by any Loan Parties not otherwise permitted under this Section 7.05; *provided* that (i) at the time of such Disposition, no Default shall exist or would result from such Disposition, (ii) the aggregate book value of all property Disposed of in reliance on this clause (f)

in any fiscal year shall not exceed \$30,000,000 and (iii) the purchase price for such asset shall be paid to such Loan Party solely in cash;

(g) Dispositions by any Subsidiaries that are not Loan Parties not otherwise permitted under this Section 7.05; *provided* that (i) at the time of such Disposition, no Default shall exist or would result from such Disposition, (ii) the aggregate book value of all property Disposed of in reliance on this clause (g) in any fiscal year shall not exceed \$30,000,000 and (iii) the purchase price for such asset shall be paid to such Subsidiary solely in cash;

(h) sale of Securitization Assets pursuant to any Qualified Securitization Transactions and preliminary intercompany transfers of such assets and related rights or assets in connection therewith;

(i) sales, transfers and dispositions of accounts receivable in the ordinary course of business pursuant to any Permitted Receivables Facility; and

(j) Dispositions made in connection with a Permitted Acquisition, contemplated at the time of such Permitted Acquisition, and occurring within 24 months of the consummation of such Permitted Acquisition;

provided, however, that any Disposition pursuant to Section 7.05(a) through (j) shall be for fair market value.

Section 7.06. Restricted Payments

. Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, or issue or sell any Equity Interests or accept any capital contributions, except that, so long as no Default shall have occurred and be continuing at the time of any action described below or would result therefrom:

(a) each Subsidiary may make Restricted Payments to the Borrowers, any Subsidiaries of the Borrowers and any other Person that owns a direct Equity Interest in such Subsidiary, ratably according to their respective holdings of the type of Equity Interest in respect of which such Restricted Payment is being made;

(b) the Domestic Borrower and each Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(c) the Domestic Borrower and each Subsidiary may purchase, redeem or otherwise acquire its common Equity Interests with the proceeds received from the substantially concurrent issue of new common Equity Interests;

(d) the Borrowers may make Restricted Payments not otherwise permitted pursuant to this Section 7.06 so long as (i) no Default or Event of Default has occurred and is continuing or would result therefrom and (ii) both before and after giving effect thereto, the pro forma Consolidated Leverage Ratio shall be at least 0.25 to 1.00 less than the maximum Consolidated Leverage Ratio then permitted pursuant to Section 7.11(a);

(e) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, the Domestic Borrower may declare and make dividend payments of a net type not otherwise permitted pursuant to this Section 7.06 in an aggregate amount not to exceed \$25,000,000 in any fiscal year; and

(f) the Domestic Borrower and each Subsidiary may make the capital contributions/ distributions contemplated by Section 7.03(i) to finance (in part) the Lite-On Acquisition.

Section 7.07. Change in Nature of Business

. Engage in any material line of business substantially different from those lines of business conducted by the Domestic Borrower and its Subsidiaries on the date hereof or any business substantially related or incidental thereto.

Section 7.08. Transactions with Affiliates

. Enter into any transaction of any kind with any Affiliate of any Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to any Borrower or such Subsidiary as would be obtainable by the applicable Borrower or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate; *provided* that the foregoing restriction shall not apply to transactions between or among the Loan Parties that are otherwise permitted by the terms of this Agreement and to Qualified Securitization Transactions.

Section 7.09. Burdensome Agreements

. Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that (a) limits the ability (i) of any Subsidiary to make Restricted Payments to any Borrower or any Guarantor or to otherwise transfer property to or invest in any Borrower or any Guarantor, except for any agreement in effect (A) on the date hereof and set forth on Schedule 7.09, (B) at the time any Subsidiary becomes a Subsidiary of a Borrower, so long as such agreement was not entered into solely in contemplation of such Person becoming a Subsidiary of such Borrower or (C) customary restrictions and conditions contained in agreements relating to a Qualified Securitization Transaction or a Permitted Receivables Facility, (ii) of any Subsidiary to Guarantee the Indebtedness of a Borrower or (iii) of a Borrower or any Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person; *provided, however*, that this clause (iii) shall not prohibit any negative pledge incurred or provided in favor of any holder of Indebtedness permitted under Section 7.02(f) solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness; or (b) requires the grant of a Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person.

Section 7.10. Use of Proceeds

. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

Section 7.11. Financial Covenants.

(a) *Maximum Consolidated Leverage Ratio.* Permit the Consolidated Leverage Ratio for each fiscal quarter of the Domestic Borrower to be greater than (i) 3.50 to 1.00, for any fiscal quarter ending during the period from the Closing Date to and including September 30, 2021 and (ii) 3.25 to 1.00, for any fiscal quarter ending thereafter.

(b) *Minimum Consolidated Fixed Charge Coverage Ratio.* Permit the Consolidated Fixed Charge Coverage Ratio for each fiscal quarter of the Domestic Borrower to be less than 1.35 to 1.00.

Section 7.12. Amendments of Organization Documents

. Amend any of its Organization Documents in any manner adverse to the Administrative Agent or the other Secured Parties.

Section 7.13. Accounting Changes

. Make any change in (a) accounting policies or reporting practices, except as required by GAAP, or (b) fiscal year.

Section 7.14. Prepayments of Indebtedness

. Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner, or make any payment in violation of any subordination terms of, any Indebtedness, except (a) the prepayment of the Credit Extensions in accordance with the terms of this Agreement, (b) regularly scheduled or required repayments or redemptions of Indebtedness set forth in Schedule 7.02 and refinancings and refundings of such Indebtedness in compliance with Section 7.02(d) and (c) Indebtedness permitted pursuant to Section 7.02(g).

Section 7.15. Amendment of Indebtedness; Lite-On Acquisition Related Documents.

(a) Amend, modify or change in any manner any term or condition of any Indebtedness set forth in Schedule 7.02, except for any refinancing, refunding, renewal or extension thereof permitted by Section 7.02(d), and except for any amendment, modification or change of Indebtedness permitted pursuant to Section 7.02(g).

(b) Cancel or terminate any Lite-On Acquisition Related Document or consent to or accept any cancellation or termination thereof or (x) amend, modify or change in any manner any term or condition of any Lite-On Acquisition Related Document, (y) give any consent, waiver or approval thereunder or (z) take or fail to take any action thereunder, which, in any case of clause (x), (y) or (z), could be reasonably expected to have a material and adverse effect on the interests of the Lenders without the prior written consent of the Administrative Agent and the Required Lenders.

Section 7.16. Sanctions

. Directly or indirectly, use any Credit Extension or the proceeds of any Credit Extension, or lend, contribute or otherwise make available such Credit Extension or the proceeds of any Credit Extension to any Person, to fund any activities of or business with any Person, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as Lender, Arranger, Administrative Agent, L/C Issuer, Swingline Lender, or otherwise) of Sanctions.

Section 7.17. Anti-Corruption Laws

. Directly or indirectly, use any Credit Extension or the proceeds of any Credit Extension for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other anti-corruption legislation in other jurisdictions.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01. *Events of Default*

. Any of the following shall constitute an Event of Default:

(a) *Non-Payment.* Any Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, and in the currency required hereunder, any amount of principal of any Loan or any L/C Obligation, or (ii) within three days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee due hereunder, or (iii) within five days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or

(b) *Specific Covenants.* Any Borrower fails to perform or observe any term, covenant or agreement contained in any of Section 6.01, 6.02(a), 6.03(a), 6.03(b), 6.05 (with respect to the existence of a Loan Party), 6.10, 6.11, 6.12, 6.14, 6.17, or Article VII; or

(c) *Other Defaults.* Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for five days (if such breach relates to terms or provisions of Section 6.02(b) through (m)) or 30 days (if such breach relates to terms or provisions of any other Section of this Agreement or any other Loan Document); or

(d) *Representations and Warranties.* Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Borrower or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading when made or deemed made; or

(e) *Cross-Default.* (i) Any Loan Party or any Subsidiary thereof (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guarantee (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee (of more than the Threshold Amount) or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which a Loan Party or any Subsidiary thereof is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined)

under such Swap Contract as to which a Loan Party or any Subsidiary thereof is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by such Loan Party or such Subsidiary as a result thereof is greater than the Threshold Amount; or

(f) *Insolvency Proceedings, Etc.* The Domestic Borrower or any of its Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, administrator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) *Inability to Pay Debts; Attachment.* (i) The Domestic Borrower or any Subsidiary thereof becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) *Judgments.* There is entered against any Borrower or any Subsidiary thereof (i) one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments or orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 10 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) *ERISA.* (i) An ERISA Event occurs which has resulted or could reasonably be expected to result in liability of the Domestic Borrower under Title IV of ERISA in an aggregate amount in excess of the Threshold Amount, or (ii) the Domestic Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of the Threshold Amount; or

(j) *Foreign Pension Plans.* (i) There occurs any Foreign Plan Event or any Loan Party or an Affiliate thereof takes any action or contravenes any Applicable Law with respect to a Foreign Pension Plan that could reasonably be expected to have a Material Adverse Effect or (ii) Diodes Zetex Limited, Diodes Zetex Semiconductors Limited or the Domestic Borrower fails to perform any obligation required by the Diodes Zetex Pension Scheme and the result of such failure is the ability of the trustees of such scheme to exercise remedies under the Diodes Zetex Pension Scheme Guarantee or the Diodes Zetex Pension Scheme Legal Charge, whether or not such remedies are actually exercised; or

(k) *Invalidity of Loan Documents.* Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document; or it becomes unlawful for a Loan Party to perform any of its obligations under the Loan Documents; or

(l) *Change of Control.* There occurs any Change of Control; or

(m) *Collateral Documents.* Any Collateral Document after delivery thereof pursuant to the terms of the Loan Documents shall for any reason (other than pursuant to the terms thereof) cease to create a valid and perfected first priority Lien (subject to Liens permitted by Section 7.01) on the Collateral purported to be covered thereby, or any Loan Party shall assert the invalidity of such Liens.

Without limiting the provisions of Article VII, if a Default shall have occurred under the Loan Documents, then such Default will continue to exist until it either is cured (to the extent specifically permitted) in accordance with the Loan Documents or is otherwise expressly waived by Administrative Agent (with the approval of requisite Appropriate Lenders (in their sole discretion)) as determined in accordance with Section 11.01; and once an Event of Default occurs under the Loan Documents, then such Event of Default will continue to exist until it is expressly waived by the requisite Appropriate Lenders or by the Administrative Agent with the approval of the requisite Appropriate Lenders, as required hereunder in Section 11.01.

Section 8.02. Remedies Upon Event of Default

. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the Commitment of each Lender to make Loans and any obligation of each L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrowers;

(c) require that each Borrower Cash Collateralize its L/C Obligations (in an amount equal to the Minimum Collateral Amount with respect thereto); and

(d) exercise on behalf of itself, the Lenders and the L/C Issuers all rights and remedies available to it, the Lenders and the L/C Issuers under the Loan Documents;

provided that upon the occurrence of an actual or deemed entry of an order for relief with respect to any Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of each L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrowers to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

Section 8.03. Application of Funds.

(a) *Domestic Persons.* After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.15 and 2.16, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest, Letter of Credit Fees and any Obligations then owing under Secured Hedge Agreements and Secured Cash Management Agreements) payable to the Lenders and the L/C Issuers (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuers arising under the Loan Documents and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations arising under the Loan Documents (other than any Obligations then owing under Secured Hedge Agreements and Secured Cash Management Agreements), ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, L/C Borrowings and Obligations then owing under Secured Hedge Agreements and Secured Cash Management Agreement, ratably among the Lenders, the L/C Issuers, the Hedge Banks and the Cash Management Banks in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the applicable L/C Issuers, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the applicable Borrower pursuant to Sections 2.03 and 2.15, ratably among the Lenders, the L/C Issuers, the Hedge Banks

and the Cash Management Banks in proportion to the respective amounts described in this clause Fifth held by them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the applicable Borrower or as otherwise required by Law.

Subject to Sections 2.03(c) and 2.15, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above. Excluded Swap Obligations with respect to any Loan Party shall not be paid with amounts received from such Loan Party or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section. Excluded Swap Obligations with respect to any Loan Party shall not be paid with amounts received from such Loan Party or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section 8.03.

(b) *Foreign Persons.* After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Foreign Obligations shall, subject to the provisions of Sections 2.15 and 2.16, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Foreign Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Foreign Obligations constituting fees, indemnities and other amounts (other than principal, interest, Letter of Credit Fees and any Obligations then owing under Secured Hedge Agreements and Secured Cash Management Agreements) payable to the Lenders and the L/C Issuers (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuers arising under the Loan Documents and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Foreign Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations arising under the Loan Documents (other than any Obligations then owing under Secured Hedge Agreements and Secured Cash Management Agreements), ratably among the Lenders and the L/C Issuers in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Foreign Obligations constituting unpaid principal of the Loans, L/C Borrowings and Foreign Obligations then owing under Secured

Hedge Agreements and Secured Cash Management Agreements, ratably among the Lenders, the L/C Issuers, the Hedge Banks and the Cash Management Banks in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the applicable L/C Issuers, to Cash Collateralize that portion of L/C Obligations constituting Foreign Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the applicable Borrower pursuant to Sections 2.03 and 2.15, ratably among the Lenders, the L/C Issuers, the Hedge Banks and the Cash Management Banks in proportion to the respective amounts described in this clause Fifth held by them; and

Last, the balance, if any, after all of the Foreign Obligations have been indefeasibly paid in full, to the applicable Borrower or as otherwise required by Law.

Subject to Sections 2.03(c) and 2.15, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Foreign Obligations, if any, in the order set forth above. Excluded Swap Obligations with respect to any Loan Party shall not be paid with amounts received from such Loan Party or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Foreign Obligations otherwise set forth above in this Section 8.03.

(c) *Cash Management Agreements and Hedge Agreements.* Notwithstanding the foregoing, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements shall be excluded from the application described above if the Administrative Agent has not received a Secured Party Designation Notice, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. Each Cash Management Bank or Hedge Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article IX for itself and its Affiliates as if a "Lender" party hereto.

ARTICLE IX

ADMINISTRATIVE AGENT

Section 9.01. Appointment and Authority

(a) Each of the Lenders and each of the L/C Issuers hereby irrevocably appoints, designates and authorizes Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuers, and neither the Borrowers nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with

reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties. In addition, to the extent required under the laws of any jurisdiction other than the United States of America, each of the Lenders and Secured Parties hereby grants to the Administrative Agent any required powers of attorney to execute any Collateral Document governed by the laws of such jurisdiction on such Lender's or Secured Party's behalf.

(b) The Administrative Agent shall also act as the "collateral agent" and as "security trustee" under the Loan Documents, and each of the Lenders (including in its capacities as a potential Hedge Bank and a potential Cash Management Bank) and each of the L/C Issuers hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent and security trustee of such Lender and such L/C Issuer for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto and as set out in the Loan Documents. In this connection, the Administrative Agent, as "collateral agent" and as "security trustee" and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05 or any other applicable Loan Document for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Article IX and Article XI (including Section 11.04(c)) and any other applicable Loan Document, as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" or "security trustee," as the case may be, under the Loan Documents) as if set forth in full herein with respect thereto.

Section 9.02. Rights as a Lender

. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust, financial, advisory, underwriting or other business with any Loan Party or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders or to provide notice to or consent of the Lenders with respect thereto.

Section 9.03. Exculpatory Provisions

. The Administrative Agent or each Arranger, as applicable, shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent or each Arranger, as applicable, and its Related Parties:

- (a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;
- (b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by

the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); *provided* that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or Applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(c) shall not have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, to any Lender or any L/C Issuer any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their Affiliates that is communicated to, or in the possession of, the Administrative Agent, any Arranger or any of their Related Parties in any capacity, except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein.

Neither the Administrative Agent nor any of its Related Parties shall be liable for any action taken or not taken by the Administrative Agent under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby or thereby (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 11.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Domestic Borrower, a Lender or an L/C Issuer.

Neither the Administrative Agent nor any of its Related Parties have any duty or obligation to any Lender or participant or any other Person to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

Section 9.04. Reliance by Administrative Agent

. The Administrative Agent shall be entitled to rely upon, and shall be fully protected in relying and shall not incur any liability for relying upon, any notice, request, certificate, communication, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by

it to have been made by the proper Person, and shall be fully protected in relying and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or such L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or such L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Loan Parties), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. For purposes of determining compliance with the conditions specified in Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objections.

Section 9.05. Delegation of Duties

. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the Facilities as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Section 9.06. Resignation of Administrative Agent

. (a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuers and the Domestic Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Domestic Borrower, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "*Resignation Effective Date*"), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the L/C Issuers, appoint a successor Administrative Agent meeting the qualifications set forth above; *provided* that in no event shall any successor Administrative Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(a) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by Applicable Law, by notice in writing to the Domestic Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Domestic Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "*Removal Effective Date*"),

then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(b) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuers under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each L/C Issuer directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Administrative Agent (other than as provided in Section 3.01(g) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrowers to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Domestic Borrower and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 11.04 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them (i) while the retiring or removed Administrative Agent was acting as Administrative Agent and (ii) after such resignation or removal for as long as any of them continues to act in any capacity hereunder or under the other Loan Documents, including, without limitation, (A) acting as collateral agent or otherwise holding any collateral security on behalf of any of the Secured Parties and (B) in respect of any actions taken in connection with transferring the agency to any successor Administrative Agent.

(c) Any resignation or removal by Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as an L/C Issuer and Swingline Lender. If Bank of America resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto, including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c). If Bank of America resigns as Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swingline Loans pursuant to Section 2.04(c). Upon the appointment by the Domestic Borrower of a successor L/C Issuer or Swingline Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swingline Lender, as applicable, (b) the retiring L/C Issuer and Swingline Lender shall be discharged from all of their

respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

Section 9.07. Non-Reliance on Administrative Agent and Other Lenders

. Each Lender and each L/C Issuer expressly acknowledges that none of the Administrative Agent nor any Arranger has made any representation or warranty to it, and that no act by the Administrative Agent or any Arranger hereafter taken, including any consent to, and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by the Administrative Agent or any Arranger to any Lender or any L/C Issuer as to any matter, including whether the Administrative Agent or any Arranger have disclosed material information in their (or their Related Parties') possession. Each Lender and each L/C Issuer represents to the Administrative Agent and each Arranger that it has, independently and without reliance upon the Administrative Agent, each Arranger, any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis of, appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrowers hereunder. Each Lender and each L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Arranger, any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties. Each Lender and each L/C Issuer represents and warrants that (i) the Loan Documents set forth the terms of a commercial lending facility and (ii) it is engaged in making, acquiring or holding commercial loans in the ordinary course and is entering into this Agreement as a Lender or an L/C Issuer for the purpose of making, acquiring or holding commercial loans and providing other facilities set forth herein as may be applicable to such Lender or such L/C Issuer, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument, and each Lender and each L/C Issuer agrees not to assert a claim in contravention of the foregoing. Each Lender and each L/C Issuer represents and warrants that it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender or such L/C Issuer, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities.

Section 9.08. No Other Duties, Etc.

Anything herein to the contrary notwithstanding, none of the titles listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, an Arranger, a Lender or an L/C Issuer hereunder.

(a) In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on any Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuers and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuers and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuers and the Administrative Agent under Sections 2.03(h) and 2.03(i), 2.09, 2.10(b) and 11.04) allowed in such judicial proceeding; and

(ii) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each L/C Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuers, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09, 2.10(b) and 11.04.

(b) Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any L/C Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or any L/C Issuer or in any such proceeding.

(c) The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (i) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (ii) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any Applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis

(with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (A) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (B) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (a) through (k) of Section 11.01 of this Agreement) and (C) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

Section 9.10. Collateral and Guaranty Matters

. Each Lender (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank) and each L/C Issuer irrevocably authorize the Administrative Agent, at its option and in its discretion,

(a) to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon the Facility Termination Date, (ii) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted hereunder or under any other Loan Document, or (iii) subject to Section 11.01, if approved, authorized or ratified in writing by the Required Lenders;

(b) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(j); and

(c) to release any Guarantor from its obligations under the Guaranty, and to release any pledge of Equity Interests of such Person, if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.10. In each case as specified in this Section 9.10, the Administrative Agent will, at the Borrowers' expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.10.

The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

Section 9.11. Secured Cash Management Agreements and Secured Hedge Agreements

. Except as otherwise expressly set forth herein or in any Guaranty or any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefits of Section 8.03, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) (or to notice of or to consent to any amendment, waiver or modification of the provisions hereof or of any Guaranty or any Collateral Document) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article IX to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. The Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements in the case of a Facility Termination Date.

Section 9.12. Certain ERISA Matters

. (a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrowers or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in,

administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrowers or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

ARTICLE X

GUARANTY

Section 10.01. The Guaranty.

(a) *Global Guarantors.* Each of the Global Guarantors hereby jointly and severally guarantees to the Secured Parties, as primary obligor and not as surety, the prompt payment of all Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) strictly in accordance with the terms thereof. The Global Guarantors hereby further agree that if any of the Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise), the Global Guarantors will, jointly and severally, promptly pay the same, without any demand or notice whatsoever (other than as otherwise expressly required pursuant to the Loan Documents), and that in the case of any extension of time of payment or renewal of any of the Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) in accordance with the terms of such extension or renewal.

(b) *Foreign Guarantors.* Each of the Foreign Guarantors hereby jointly and severally guarantees the Secured Parties, as primary obligor and not as surety, the prompt payment of all Foreign Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) strictly in accordance with the terms thereof. Each of the Foreign Guarantors hereby further agrees that if any of such Foreign Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise), the Foreign Guarantors will, jointly and severally, promptly pay the same,

without any demand or notice whatsoever (other than as otherwise expressly required pursuant to the Loan Documents), and that in the case of any extension of time of payment or renewal of any of such obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) in accordance with the terms of such extension or renewal.

(c) *Domestic Borrower.* The Domestic Borrower hereby guarantees to the Secured Parties, as primary obligor and not as surety, the prompt payment of all Foreign Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) strictly in accordance with the terms thereof. The Domestic Borrower hereby further agrees that if any of such Foreign Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise), it will promptly pay the same, without any demand or notice whatsoever (other than as otherwise expressly required pursuant to the Loan Documents), and that in the case of any extension of time of payment or renewal of any of such obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or otherwise) in accordance with the terms of such extension or renewal.

(d) *Savings Clause.* Notwithstanding any provision to the contrary contained herein or in any other of the Loan Documents, Swap Contracts or Cash Management Agreements, the obligations of each Guarantor (in its capacity as such) under this Agreement and the other Loan Documents shall (A) exclude any Excluded Swap Obligations with respect to such Guarantor and (B) be limited to an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under the Debtor Relief Laws or any comparable provisions of any applicable Law, and any waiver of rights of a Foreign Guarantor made under this Article X which is invalid, ineffective or unenforceable in whole, in part or to any extent under the Applicable Law of the Foreign Guarantor's jurisdiction of incorporation or operation shall apply only to the extent that such waiver is valid and enforceable.

Section 10.02. Obligations Unconditional.

(a) *Global Guarantors.* The obligations of the Global Guarantors under Section 10.01 are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Loan Documents, Swap Contracts or Cash Management Agreements, or any other agreement or instrument referred to therein, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Obligations, and, to the fullest extent permitted by applicable Law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 10.02 that the obligations of the Global Guarantors hereunder shall be absolute and unconditional under any and all circumstances. Each Global Guarantor agrees that such Global Guarantor shall have no right of subrogation, indemnity, reimbursement or contribution against the Borrowers or any other Guarantor for amounts paid under this Article X until such time as the Obligations have been paid in full and the Commitments have expired or terminated.

(b) *Foreign Guarantors.* The obligations of the Foreign Guarantors under Section 10.01 are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Loan Documents, Swap Contracts or Cash Management Agreements, or any

other agreement or instrument referred to therein, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Foreign Obligations, and, to the fullest extent permitted by applicable Law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 10.02 that the obligations of the Foreign Guarantors hereunder shall be absolute and unconditional under any and all circumstances. Each of the Foreign Guarantors agrees that such Foreign Guarantor shall have no right of subrogation, indemnity, reimbursement or contribution against the Foreign Borrower, the Domestic Borrower or any other Guarantor for amounts paid under this Article X until such time as the Obligations have been paid in full and the Commitments have expired or terminated.

(c) *Domestic Borrower.* The obligations of the Domestic Borrower under Section 10.01 are absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Loan Documents, Swap Contracts or Cash Management Agreements, or any other agreement or instrument referred to therein, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Foreign Obligations, and, to the fullest extent permitted by applicable Law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 10.02 that the obligations of the Domestic Borrower hereunder shall be absolute and unconditional under any and all circumstances. The Domestic Borrower agrees that it shall have no right of subrogation, indemnity, reimbursement or contribution against the Foreign Borrower or any other Guarantor for amounts paid under this Article X until such time as the Obligations have been paid in full and the Commitments have expired or terminated.

(d) *Certain Waivers.* Without limiting the generality of the foregoing subsections (a), (b) and (c), it is agreed that, to the fullest extent permitted by Law, the occurrence of any one or more of the following shall not alter or impair the liability of the Domestic Borrower or any Guarantor hereunder, which shall remain absolute and unconditional as described above:

(i) at any time or from time to time, without notice to the Domestic Borrower or any Guarantor, the time for any performance of or compliance with any of the Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of any of the Loan Documents, any Swap Contract between any Loan Party and any Lender or any Affiliate of a Lender, any Cash Management Agreement between any Loan Party and any Lender or any Affiliate of a Lender, or any other agreement or instrument referred to in the Loan Documents, such Swap Contracts or such Cash Management Agreements shall be done or omitted;

(iii) the maturity of any of the Obligations shall be accelerated, or any of the Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Loan Documents, any Swap Contract between any Loan Party and any Lender or any Affiliate of a Lender, any Cash Management Agreement between any Loan Party and any Lender or any Affiliate of a Lender, or any other agreement or instrument referred to in the Loan Documents, such Swap Contracts or such Cash Management Agreements shall be waived or any other guarantee of any of the Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;

(iv) any Lien granted to, or in favor of, the Administrative Agent acting as “collateral agent” in accordance with Section 9.01(b) or any holder of the Obligations as security for any of the Obligations shall fail to attach or be perfected; or

(v) any of the Obligations shall be determined to be void or voidable (including for the benefit of any creditor of the Domestic Borrower or any Guarantor) or shall be subordinated to the claims of any Person (including any creditor of the Domestic Borrower or any Guarantor).

(e) *Certain Additional Waivers.*

(i) With respect to its obligations under this Article X, the Domestic Borrower and each Guarantor hereby expressly waives diligence, presentment, demand of payment, protest and all notices (other than as otherwise expressly required pursuant to the Loan Documents) whatsoever, and any requirement that the Administrative Agent or any other holder of the Obligations exhaust any right, power or remedy or proceed against any Person under any of the Loan Documents, any Swap Contract between any Loan Party and any Lender or any Affiliate of a Lender, any Cash Management Agreement between any Loan Party and any Lender or any Affiliate of a Lender, or any other agreement or instrument referred to in the Loan Documents, such Swap Contracts or such Cash Management Agreements, or against any other Person under any other guarantee of, or security for, any of the Obligations; and

(ii) Each Loan Party waives any rights and defenses that are or may become available to it by reason of §§ 2787 to 2855, inclusive, and §§ 2899 and 3433 of the California Civil Code. As provided below, this Guaranty shall be governed by, and construed in accordance with, the laws of the State of New York. The foregoing waivers and the provisions hereinafter set forth in this Guaranty which pertain to California law are included solely out of an abundance of caution, and shall not be construed to mean that any of the above referenced provisions of California law are in any way applicable to this Guaranty or the Obligations.

(iii) The Domestic Borrower and each Guarantor hereby expressly waives (a) any defense arising by reason of any disability or other defense of the Borrowers or any other guarantor, or the cessation from any cause whatsoever (including any act or omission of any Secured Party) of the liability of any Borrower or any other Loan Party; (b) any defense based on any claim that such Guarantor’s obligations exceed or are more burdensome than those of the Borrowers or any other Loan Party; (c) the benefit of any statute of limitations affecting any Guarantor’s liability hereunder; (d) any right to proceed against the Borrowers or any other Loan Party, proceed against or exhaust any security for the Obligations, or pursue any other remedy in the power of any Secured Party whatsoever; (e) any benefit of and any right to participate in any security now or hereafter held by any Secured Party; and (f) to the fullest extent permitted by law, any and all other defenses or benefits that may be derived from or afforded by Applicable Law limiting the liability of or exonerating guarantors or sureties. Each Guarantor expressly waives all setoffs and counterclaims and all presentments, demands for payment or performance, notices of nonpayment or nonperformance, protests, notices of protest, notices of dishonor and all other notices or demands of any kind or nature whatsoever with respect to the Obligations, and all notices of acceptance of this Guaranty or of the existence, creation or incurrence of new or additional Secured Obligations.

Section 10.03. Reinstatement.

(a) *Global Guarantors.* The obligations of each Global Guarantor under this Article X shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Obligations is rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and each Global Guarantor agrees that it will indemnify each Secured Party on demand for all reasonable costs and expenses (including the reasonable fees, charges and disbursements of counsel) incurred by such Person in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar Law.

(b) *Foreign Guarantors.* The obligations of each Foreign Guarantor under this Article X shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Foreign Obligations is rescinded or must be otherwise restored by any holder of any of the Foreign Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and each of the Foreign Guarantors agrees that it will indemnify each Secured Party on demand for all reasonable costs and expenses (including the reasonable fees, charges and disbursements of counsel) incurred by such Person in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar Law.

(c) *Domestic Borrower.* The obligations of the Domestic Borrower under this Article X shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Foreign Obligations is rescinded or must be otherwise restored by any holder of any of the Foreign Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and the Domestic Borrower agrees that it will indemnify each Secured Party on demand for all reasonable costs and expenses (including the reasonable fees, charges and disbursements of counsel) incurred by such Person in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar Law.

Section 10.04. Subrogation and Contribution

. The Domestic Borrower and each Guarantor agrees that it shall have no right of recourse to security for the Obligations, except through the exercise of rights of subrogation pursuant to Section 10.02 and through the exercise of rights of contribution pursuant to Section 10.06.

Section 10.05. Remedies.

(a) *Global Guarantors.* Each of the Global Guarantors agrees that, to the fullest extent permitted by Law, as between the Global Guarantors, on the one hand, and holders of the Obligations, on the other hand, the Obligations may be declared to be forthwith due and payable as provided in Section 8.02 (and shall be deemed to have become automatically due and payable in the circumstances provided in said Section 8.02) for purposes of Section 10.01 notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Obligations

being deemed to have become automatically due and payable), the Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Global Guarantors for purposes of Section 10.01. The Global Guarantors acknowledge and agree that their obligations hereunder are secured in accordance with the terms of the Collateral Documents and that the holders of the Obligations may exercise their remedies thereunder in accordance with the terms thereof.

(b) *Foreign Guarantors.* Each of the Foreign Guarantors agrees that, to the fullest extent permitted by Law, as between the Foreign Guarantors, on the one hand, and the holders of the Foreign Obligations, on the other hand, the Foreign Obligations may be declared to be forthwith due and payable as provided in Section 8.02 (and shall be deemed to have become automatically due and payable in the circumstances provided in said Section 8.02) for purposes of Section 10.01 notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Foreign Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Foreign Obligations being deemed to have become automatically due and payable), the Foreign Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Foreign Guarantors for purposes of Section 10.01. Each of the Foreign Guarantors acknowledges and agrees that its obligations hereunder are secured in accordance with the terms of the Collateral Documents and that the holders of the Foreign Obligations may exercise their remedies thereunder in accordance with the terms thereof.

(c) *Domestic Borrower.* The Domestic Borrower agrees that, to the fullest extent permitted by Law, as between the Domestic Borrower, on the one hand, and the holders of the Foreign Obligations, on the other hand, the Foreign Obligations may be declared to be forthwith due and payable as provided in Section 8.02 (and shall be deemed to have become automatically due and payable in the circumstances provided in said Section 8.02) for purposes of Section 10.01 notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Foreign Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Foreign Obligations being deemed to have become automatically due and payable), the Foreign Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Domestic Borrower for purposes of Section 10.01. The Domestic Borrower acknowledges and agrees that its obligations hereunder are secured in accordance with the terms of the Collateral Documents and that the holders of the Foreign Obligations may exercise their remedies thereunder in accordance with the terms thereof.

Section 10.06. Rights of Contribution.

(a) *Global Guarantors.* The Domestic Borrower and the Global Guarantors hereby agree as among themselves that, in connection with payments made under this Article X, each Global Guarantor shall have a right of contribution from each other Global Guarantor and the Domestic Borrower (with respect to its guaranty under Section 10.01(c)) in accordance with applicable Law. Such contribution rights shall be subordinate and subject in right of payment to the Obligations until such time as the Obligations have been irrevocably paid in full and the commitments relating thereto shall have expired or been terminated, and none of the Global Guarantors shall exercise any such contribution rights until the Obligations have been irrevocably paid in full and the commitments relating thereto shall have expired or been terminated.

(b) *Foreign Guarantors.* The Domestic Borrower, the Global Guarantors and the Foreign Guarantors hereby agree as among themselves that, in connection with payments made under this Article X, the Foreign Guarantors shall have a right of contribution from the Domestic Borrower (with respect to its guaranty under Section 10.01(c)) and each other Guarantor in accordance with applicable Law. Such contribution rights shall be subordinate and subject in right of payment to the Obligations until such time as the Obligations have been irrevocably paid in full and the commitments relating thereto shall have expired or been terminated, and none of the Foreign Guarantors shall exercise any such contribution rights until the Obligations have been irrevocably paid in full and the commitments relating thereto shall have expired or been terminated.

Section 10.07. Guarantee of Payment; Continuing Guarantee.

(a) *Global Guarantors.* The guarantee given by the Global Guarantors in this Article X is a guaranty of payment and not of collection, is a continuing guarantee, shall apply to all Obligations whenever arising and shall remain in full force and effect until the Facility Termination Date.

(b) *Foreign Guarantors.* The guarantee given by the Foreign Guarantors in this Article X is a guaranty of payment and not of collection, is a continuing guarantee, shall apply to all Foreign Obligations whenever arising and shall remain in full force and effect until the Facility Termination Date.

(c) *Domestic Borrower.* The guarantee given by the Domestic Borrower in this Article X is a guaranty of payment and not of collection, is a continuing guarantee, shall apply to all Foreign Obligations whenever arising and shall remain in full force and effect until the Facility Termination Date.

Section 10.08. Additional Guarantor Waivers and Agreements.

(a) Each Loan Party understands and acknowledges that if the Secured Parties foreclose judicially or nonjudicially against any real property security for the Obligations, that foreclosure could impair or destroy any ability that such Loan Party may have to seek reimbursement, contribution, or indemnification from any other Loan Party or others based on any right such Loan Party may have of subrogation, reimbursement, contribution, or indemnification for any amounts paid by such Loan Party under this Guaranty. Each Loan Party further understands and acknowledges that in the absence of this paragraph, such potential impairment or destruction of such Loan Party's rights, if any, may entitle such Loan Party to assert a defense to this Guaranty based on Section 580d of the California Code of Civil Procedure as interpreted in *Union Bank v. Gradsky*, 265 Cal. App. 2d 40 (1968). By executing this Guaranty, each Loan Party freely, irrevocably, and unconditionally: (i) waives and relinquishes that defense and agrees that such Loan Party will be fully liable under this Guaranty even though the Secured Parties may foreclose, either by judicial foreclosure or by exercise of power of sale, any deed of trust securing the Obligations; (ii) agrees that such Loan Party will not assert that defense in any action or proceeding which the Secured Parties may commence to enforce this Guaranty; (iii) acknowledges and agrees that the rights and defenses waived by such Loan Party in this Guaranty include any right or defense that such Loan Party may have or be entitled to assert based upon or arising out of any one or more of §§ 580a, 580b, 580d, or 726 of the California Code of Civil Procedure or § 2848 of the California Civil Code; and (iv) acknowledges and agrees that the Secured Parties are relying on this waiver in creating the Obligations, and that this waiver is a material part of the consideration which the Secured Parties are receiving for creating the Obligations.

(b) Each Loan Party waives all rights and defenses that such Loan Party may have because any of the Obligations is secured by real property. This means, among other things: (i) the Secured Parties may collect from any Loan Party without first foreclosing on any real or personal property collateral pledged by the other Loan Parties; and (ii) if the Secured Parties foreclose on any real property collateral pledged by the other Loan Parties: (A) the amount of the Obligations may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (B) the Secured Parties may collect from any Loan Party even if the Secured Parties, by foreclosing on the real property collateral, have destroyed any right such Loan Party may have to collect from the other Loan Parties. This is an unconditional and irrevocable waiver of any rights and defenses each Loan Party may have because any of the Obligations is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon § 580a, 580b, 580d, or 726 of the California Code of Civil Procedure.

(c) Each Loan Party waives any right or defense it may have at law or equity, including California Code of Civil Procedure § 580a, to a fair market value hearing or action to determine a deficiency judgment after a foreclosure.

(d) Each Loan Party waives all rights and defenses arising out of an election of remedies by the Secured Parties, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for the Obligations, has destroyed such Loan Party's rights of subrogation and reimbursement against the Borrowers or any other Loan Party by the operation of § 580d of the California Code of Civil Procedure or otherwise.

(e) Each Loan Party waives any and all rights of subrogation, reimbursement, indemnification and contribution and any other rights and defenses that are or may become available to such Loan Party by virtue of Sections 2787 to 2855, inclusive, of the California Civil Code.

Section 10.09. Appointment of Domestic Borrower

. Each of the Loan Parties hereby appoints the Domestic Borrower to act as its agent for all purposes of this Agreement, the other Loan Documents and all other documents and electronic platforms entered into in connection herewith and agrees that (a) the Domestic Borrower may execute such documents and provide such authorizations on behalf of such Loan Parties as the Domestic Borrower deems appropriate in its sole discretion and each Loan Party shall be obligated by all of the terms of any such document and/or authorization executed on its behalf, (b) any notice or communication delivered by the Administrative Agent, an L/C Issuer or a Lender to the Domestic Borrower shall be deemed delivered to each Loan Party and (c) the Administrative Agent, the L/C Issuers or the Lenders may accept, and be permitted to rely on, any document, authorization, instrument or agreement executed by the Domestic Borrower on behalf of each of the Loan Parties.

Section 10.10. Keepwell

. Each Loan Party that is a Qualified ECP Guarantor at the time the Guaranty or the grant of a Lien under the Loan Documents, in each case, by any Specified Loan Party becomes effective with respect to any Swap Obligation, hereby jointly and severally, absolutely, unconditionally and irrevocably undertakes to provide such funds or other support to each Specified Loan Party with respect to such Swap Obligation as may be needed by such Specified Loan Party from time to time to honor all of its obligations under the Loan Documents in respect of such Swap Obligation (but, in each case, only up to the maximum amount of such liability that can be hereby incurred without rendering such Qualified ECP Guarantor's obligations and undertakings under this Article X voidable under

Applicable Law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations and undertakings of each Qualified ECP Guarantor under this Section shall remain in full force and effect until the Obligations have been indefeasibly paid and performed in full. Each Loan Party intends this Section to constitute, and this Section shall be deemed to constitute, a guarantee of the obligations of, and a “keepwell, support, or other agreement” for the benefit of, each Specified Loan Party for all purposes of the Commodity Exchange Act.

Section 10.11. Condition of Borrowers.

Each Guarantor acknowledges and agrees that it has the sole responsibility for, and has adequate means of, obtaining from the Borrowers and any other guarantor such information concerning the financial condition, business and operations of the Borrowers and any such other guarantor as such Guarantor requires, and that none of the Secured Parties has any duty, and such Guarantor is not relying on the Secured Parties at any time, to disclose to it any information relating to the business, operations or financial condition of the Borrowers or any other guarantor (each Guarantor waiving any duty on the part of the Secured Parties to disclose such information and any defense relating to the failure to provide the same).

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendments, Etc.

Subject to Section 3.03, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by any Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders (or by the Administrative Agent with the consent of the Required Lenders) and the Borrowers or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided* that no such amendment, waiver or consent shall:

- (a) waive any condition set forth in Section 4.01(a) without the written consent of each Lender;
- (b) waive any condition set forth in Section 4.02 as to any Credit Extension under the Revolving Credit Facility without the written consent of the Required Revolving Lenders;
- (c) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;
- (d) postpone any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments, if any) of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby;
- (e) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iv) of the second proviso to this Section 11.01) any fees or

other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby; *provided* that only the consent of the Required Lenders shall be necessary (i) to amend the definition of “Default Rate” or to waive any obligation of the Borrowers to pay interest or Letter of Credit Fees at the Default Rate or (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder;

(f) change (i) Section 2.13 or Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender or (ii) the order of application of any reduction in the Commitments or any prepayment of Loans among the Facilities from the application thereof set forth in the applicable provisions of Section 2.05 or 2.06 in any manner that materially and adversely affects the Lenders under a Facility without the written consent of (A) if such Facility is the Term Facility, the Required Term Lenders, (B) if such Facility is an Incremental Term Facility, the Required Incremental Term Lenders and (C) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;

(g) change (i) any provision of this Section or the definition of “Required Lenders” or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder (other than the definitions specified in clause (ii) of this Section 11.01(g)), without the written consent of each Lender or (ii) the definition of “Required Revolving Lenders”, “Required Incremental Term Lenders” or “Required Term Lenders” without the written consent of each Lender under the applicable Facility;

(h) release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(i) release all or substantially all of the value of the Guaranty without the written consent of each Lender, except to the extent the release of any Guarantor is permitted pursuant to Section 9.10 (in which case such release may be made by the Administrative Agent acting alone);

(j) release any Borrower or permit any Borrower to assign or transfer any of its rights or obligations under this Agreement or the other Loan Documents without the consent of each Lender;

(k) impose any greater restriction on the ability of any Lender under a Facility to assign any of its rights or obligations hereunder without the written consent of (i) if such Facility is the Term Facility, the Required Term Lenders, (ii) if such Facility is an Incremental Term Facility, the Required Incremental Term Lenders and (iii) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders; or

(l) amend Section 1.06 or the definition of “Alternative Currency” without the written consent of each Revolving Credit Lender;

and *provided, further*, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuers in addition to the Lenders required above, affect the rights or duties of the L/C Issuers under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swingline Lender in addition to the Lenders required above, affect the rights or duties of the Swingline Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and (iv) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding any provision herein to the contrary, this Agreement may be amended with the written consent of the Administrative Agent, each Lender that is providing new or increased Commitments pursuant to Sections 2.17 or Section 2.18, as applicable, and the Borrowers (i) to add one or more additional revolving credit or incremental term loan facilities to this Agreement, in each case subject to the applicable limitations in Section 2.17 and Section 2.18 and to permit the extensions of credit and all related obligations and liabilities arising in connection therewith from time to time outstanding to share ratably (or on a basis subordinated to the existing facilities hereunder) in the benefits of this Agreement and the other Loan Documents with the obligations and liabilities from time to time outstanding in respect of the existing facilities hereunder, and (ii) in connection with the foregoing, to permit the Lenders providing such additional credit facilities to participate in any required vote or action required to be approved by the Required Lenders or by any other number, percentage or class of Lenders hereunder.

Notwithstanding anything to the contrary herein, this Agreement may be amended and restated without the consent of any Lender (but with the consent of the Borrowers and the Administrative Agent) if, upon giving effect to such amendment and restatement, such Lender shall no longer be a party to this Agreement (as so amended and restated), the Commitments of such Lender shall have terminated, such Lender shall have no other commitment or other obligation hereunder and shall have been paid in full all principal, interest and other amounts owing to it or accrued for its account under this Agreement.

Notwithstanding any provision herein to the contrary, this Agreement may be amended with the written consent of the Administrative Agent, Bank of America in its capacity as L/C Issuer with respect to Letters of Credit denominated in Alternative Currencies, the Borrowers and the Lenders affected thereby to amend the definition of "Alternative Currency" or "Eurocurrency Rate" or Section 1.06 solely to add additional currency options and the applicable interest rate with respect thereto, in each case solely to the extent permitted pursuant to Section 1.06.

Notwithstanding any provision herein to the contrary, if the Administrative Agent and the Borrowers acting together identify any ambiguity, omission, mistake, typographical error or other defect in any provision of this Agreement or any other Loan Document (including the schedules and exhibits thereto), then the Administrative Agent and the Borrowers shall be permitted to amend, modify or supplement such provision to cure such ambiguity, omission, mistake, typographical error or other defect, and such amendment shall become effective without any further action or consent of any other party to this Agreement.

Section 11.02. Notices; Effectiveness; Electronic Communication.

(a) *Notices Generally.* Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or e-mail transmission as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to any Borrower or any other Loan Party, the Administrative Agent, any L/C Issuer or the Swingline Lender, to the address, facsimile number, e-mail address or telephone number specified for such Person on Schedule 11.02; and

(ii) if to any other Lender, to the address, facsimile number, e-mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrowers).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) *Electronic Communications.* Notices and other communications to the Administrative Agent, the Lenders, the Swingline Lender and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail, FPML messaging and Internet or intranet websites) pursuant to an electronic communications agreement (or such other procedures approved by the Administrative Agent in its sole discretion); *provided* that the foregoing shall not apply to notices to any Lender, the Swingline Lender or any L/C Issuer pursuant to Article II if such Lender, the Swingline Lender or such L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, the Swingline Lender, any L/C Issuer or the Borrowers may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; *provided* that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment) and (ii) notices and other communications posted to an Internet or intranet website shall be deemed received by the intended recipient upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail address or other written acknowledgment) indicating that such notice or communication is available and identifying the website address therefor; *provided* that for both clauses (i) and (ii), if such notice or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(c) *The Platform.* THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to any Borrower, any Lender, any L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Borrower's, any Loan Party's or the Administrative Agent's transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet.

(d) *Change of Address, Etc.* Each of the Borrowers, the Administrative Agent, each L/C Issuer and the Swingline Lender may change its address, facsimile or telephone number or e-mail address for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number or e-mail address for notices and other communications hereunder by notice to the Domestic Borrower, the Administrative Agent, each L/C Issuer and the Swingline Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and e-mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrowers or their respective securities for purposes of United States Federal or state securities laws.

(e) *Reliance by Administrative Agent, L/C Issuers and Lenders.* The Administrative Agent, the L/C Issuers and the Lenders shall be entitled to rely and act upon any notices (including telephonic or

electronic notices, Committed Loan Notices, Letter of Credit Applications, Notices of Loan Prepayment and Swingline Loan Notices) purportedly given by or on behalf of any Loan Party even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrowers shall, jointly and severally, indemnify the Administrative Agent, each L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of a Loan Party. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

Section 11.03. No Waiver; Cumulative Remedies; Enforcement

. No failure by any Lender, any L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or under any other Loan Document preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and all the L/C Issuers; *provided* that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any L/C Issuer or the Swingline Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as an L/C Issuer or Swingline Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 11.08 (subject to the terms of Section 2.13), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and *provided, further*, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

Section 11.04. Expenses; Indemnity; Damage Waiver.

(a) *Costs and Expenses.* Each Borrower and each other Loan Party shall, jointly and severally, pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or

any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by any L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or any L/C Issuer (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or any L/C Issuer) in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) *Indemnification.* Each Borrower and each other Loan Party shall, jointly and severally, indemnify the Administrative Agent (and any sub-agent thereof), each Arranger, each Lender and each L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an “*Indemnitee*”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee) incurred by any Indemnitee or asserted against any Indemnitee by any Person (including any Borrower or any other Loan Party) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to any Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto, IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNITEE; *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by any Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee’s obligations hereunder or under any other Loan Document, if such Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. Without limiting the provisions of Section 3.01(c), this Section 11.04(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) *Reimbursement by Lenders.* To the extent that the Borrowers or other Loan Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b), as applicable, of this

Section to be paid by it to the Administrative Agent (or any sub-agent thereof), an Arranger, any L/C Issuer, the Swingline Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such L/C Issuer, the Swingline Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the aggregate unused Revolving Credit Commitments plus the Total Outstandings (with the aggregate amount of each Revolving Credit Lender's risk participation and funded participation in L/C Obligations and Swingline Loans being deemed "held" by such Revolving Credit Lender) at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), *provided, further*, that, the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), an Arranger, any L/C Issuer or the Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), such Arranger, such L/C Issuer or the Swingline Lender in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by Applicable Law, no Loan Party shall assert, and each Loan Party hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) *Payments.* All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) *Foreign Borrower/Foreign Guarantors.* Notwithstanding anything to the contrary in this Agreement or any other Loan Document, the obligations of the Foreign Borrower and the Foreign Guarantors with respect to the indemnification and expense reimbursement obligations set forth in this Section 11.04 and Section 11.02(e) shall, to the extent reasonably ascertainable, be limited to losses, claims, damages, liabilities, costs and expenses arising out of or relating to the obligations of Foreign Borrower and the Foreign Guarantors under this Agreement and the other Loan Documents (including the enforcement thereof) and the Foreign Borrower's use or proposed use of the proceeds of any Loan made to the Foreign Borrower or Letter of Credit issued for the account of the Foreign Borrower or Foreign Guarantor.

(g) *Survival.* The agreements in this Section and the indemnity provisions of Section 11.02(e) shall survive the resignation of the Administrative Agent, the L/C Issuers and the Swingline Lender, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

Section 11.05. Payments Set Aside

. To the extent that any payment by or on behalf of any Borrower is made to the Administrative Agent, any L/C Issuer or any Lender, or the Administrative Agent, any L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect in the applicable currency of such recovery or repayment. The obligations of the Lenders and the L/C Issuers under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

Section 11.06. Successors and Assigns.

(a) *Successors and Assigns Generally.* The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective successors and assigns permitted hereby, except that neither the Borrowers nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (except as otherwise permitted pursuant to Section 7.04) and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (e) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuers and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) *Assignments by Lenders.* Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment(s) and the Loans (including for purposes of this subsection (b), participations in L/C Obligations and in Swingline Loans) at the time owing to it); *provided* that (in each case with respect to any Facility) any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and/or the Loans at the time owing to it (in each case with respect to any Facility) or contemporaneous assignments to related Approved Funds (determined after giving effect to such Assignments) that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000, in the case of any assignment in respect of the Revolving Credit Facility, or \$1,000,000, in the case of any assignment in respect of the Term Facility or any Incremental Term Facility, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Domestic Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement and the other Loan Documents with respect to the Loans and/or the Commitment assigned, except that this clause (ii) shall not (A) apply to the Swingline Lender's rights and obligations in respect of Swingline Loans or (B) prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Domestic Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Domestic Borrower shall be deemed to have consented to any such assignment unless it shall object

thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (i) any Revolving Credit Commitment if such assignment is to a Person that is not a Revolving Credit Lender, an Affiliate of such Revolving Credit Lender or an Approved Fund with respect to such Revolving Credit Lender or (ii) any Term Loan or Incremental Term Loan (if any), if in each case, such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

(C) the consent of each L/C Issuer and the Swingline Lender shall be required for any assignment in respect of the Revolving Credit Facility.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to any Borrower or any of its Affiliates or Subsidiaries, (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) to a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural person).

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Domestic Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, any L/C Issuer or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swingline Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto, subject to Sections 9.06(a) and 11.06 but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 11.04 with respect to facts and circumstances occurring prior to the effective date of such assignment); *provided* that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, each Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 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 subsection (d) of this Section.

(c) *Register.* The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrowers (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "*Register*"). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) *Participations.* Any Lender may at any time, without the consent of, or notice to, any Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit for a natural Person, a Defaulting Lender or the Domestic Borrower or any of the Domestic Borrower's Affiliates or Subsidiaries) (each, a "*Participant*") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swingline Loans) owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers, the Administrative Agent, the Lenders and the L/C Issuers shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 11.04(c) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided* that such agreement or instrument

may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 11.01 that affects such Participant. The Loan Parties agree that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; *provided* that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 11.13 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at such Borrower's request and expense, to use reasonable efforts to cooperate with such Borrower to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 11.08 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of such Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "*Participant Register*"); *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) *Certain Pledges.* Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note or Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) *Resignation as L/C Issuer or Swingline Lender after Assignment.* Notwithstanding anything to the contrary contained herein, if at any time any L/C Issuer or the Swingline Lender assigns all of its Revolving Credit Commitment and Revolving Credit Loans pursuant to subsection (b) above, (i) such L/C Issuer may, upon 30 days' notice to the Domestic Borrower and the Lenders, resign as L/C Issuer and/or (ii) the Swingline Lender may, upon 30 days' notice to the Domestic Borrower, resign as Swingline Lender. In the event of any such resignation as an L/C Issuer or Swingline Lender, the Domestic Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swingline Lender hereunder; *provided* that no failure by the Domestic Borrower to appoint any such successor shall affect the resignation of the applicable L/C Issuer or the Swingline Lender as an

L/C Issuer or Swingline Lender, as the case may be. If an L/C Issuer resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If Bank of America resigns as Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swingline Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swingline Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swingline Lender, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the applicable retiring L/C Issuer to effectively assume the obligations of such applicable retiring L/C Issuer with respect to such Letters of Credit.

Section 11.07. Treatment of Certain Information; Confidentiality

. Each of the Administrative Agent, the Lenders and the L/C Issuers agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates, its auditors and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or any Eligible Assignee invited to be a Lender pursuant to Section 2.17(c) and Section 2.18(b) or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to a Borrower and its respective obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating a Borrower or its Subsidiaries or the credit facilities provided hereunder, (ii) the provider of any Platform or other electronic delivery service used by the Administrative Agent, any L/C Issuer or the Swingline Lender to deliver Borrower Materials or notices to the Lenders or (iii) the CUSIP Service Bureau or any similar agency in connection with the application, issuance, publishing and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the consent of the Domestic Borrower, (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, any L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Domestic Borrower or (j) is independently discovered or developed by a party hereto without utilizing any Information received from the Borrowers or violating the terms of this Section 11.07. For purposes of this Section, "Information" means all information received from the Domestic Borrower or any Subsidiary thereof relating to the Domestic Borrower or any Subsidiary thereof or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any L/C Issuer on a nonconfidential basis prior to disclosure

by the Domestic Borrower or any Subsidiary thereof; *provided* that, in the case of information received from the Domestic Borrower or any Subsidiary thereof after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent and the Lenders in connection with the administration of this Agreement, the other Loan Documents and the Commitments.

Each of the Administrative Agent, the Lenders and the L/C Issuers acknowledges that (a) the Information may include material non-public information concerning the Domestic Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

The Loan Parties consent to the publication by the Administrative Agent or any Lender of customary advertising material relating to the transactions contemplated hereby using the name, product photographs, logo or trademark of the Loan Parties.

Section 11.08. Right of Setoff

. If an Event of Default shall have occurred and be continuing, each Lender, each L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent, to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such L/C Issuer or any such Affiliate to or for the credit or the account of any Borrower or any other Loan Party against any and all of the obligations of such Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such L/C Issuer or their respective Affiliates, irrespective of whether or not such Lender, such L/C Issuer or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of such Borrower or such Loan Party may be contingent or unmatured, secured or unsecured, or are owed to a branch, office or Affiliate of such Lender or such L/C Issuer different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.16 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the L/C Issuers and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such L/C Issuer or their respective Affiliates may have. Each Lender and each L/C Issuer agrees to notify the Domestic Borrower and the Administrative Agent promptly after any such setoff and application; *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

Section 11.09. Interest Rate Limitation

. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “*Maximum Rate*”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the applicable Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

Section 11.10. Counterparts; Integration; Effectiveness

. This Agreement and each of the other Loan Documents may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent or any L/C Issuer, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement or any other Loan Document, or any certificate delivered thereunder, by facsimile or e-mail transmission (e.g., “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement or such other Loan Document or certificate. Without limiting the foregoing, to the extent a manually executed counterpart is not specifically required to be delivered under the terms of any Loan Document, upon the request of any party, such facsimile transmission or e-mail transmission shall be promptly followed by such manually executed counterpart.

Section 11.11. Survival of Representations and Warranties

. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

Section 11.12. Severability

. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall

not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 11.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, any L/C Issuer or the Swingline Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

Section 11.13. Replacement of Lenders

(a) If the Domestic Borrower is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Domestic Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided that*:

(i) the Domestic Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 11.06(b);

(ii) such Lender shall have received payment of an amount equal to 100% of the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(iv) such assignment does not conflict with applicable Laws; and

(v) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

(b) A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Domestic Borrower to require such assignment and delegation cease to apply.

(c) Each party hereto agrees that (i) an assignment required pursuant to this Section 11.13 may be effected pursuant to an Assignment and Assumption executed by the Domestic Borrower, the Administrative Agent and the assignee and (ii) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to and be bound by the terms thereof; *provided that*, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such

assignment as reasonably requested by the applicable Lender, provided further that any such documents shall be without recourse to or warranty by the parties thereto.

(d) Notwithstanding anything in this Section 11.13 to the contrary, (A) any Lender that acts as an L/C Issuer may not be replaced hereunder at any time it has any Letter of Credit outstanding hereunder unless arrangements satisfactory to such Lender (including the furnishing of a backstop standby letter of credit in form and substance, and issued by an issuer, reasonably satisfactory to such L/C Issuer or the depositing of Cash Collateral into a Cash Collateral account in amounts and pursuant to arrangements reasonably satisfactory to such L/C Issuer) have been made with respect to such outstanding Letter of Credit and (B) the Lender that acts as the Administrative Agent may not be replaced hereunder except in accordance with the terms of Section 9.06.

Section 11.14. Governing Law; Jurisdiction; Etc.

(a) **GOVERNING LAW.** THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) **SUBMISSION TO JURISDICTION.** EACH BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER, ANY L/C ISSUER, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY BORROWER OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) *WAIVER OF VENUE.* EACH BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) *SERVICE OF PROCESS.* EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

Section 11.15. Waiver of Jury Trial

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

Section 11.16. California Judicial Reference

. If any action or proceeding is filed in a court of the State of California by or against any party hereto in connection with any of the transactions contemplated by this Agreement or any other Loan Document, (a) the court shall, and is hereby directed to, make a general reference pursuant to California Code of Civil Procedure Section 638 to a referee (who shall be a single active or retired judge) to hear and determine all of the issues in such action or proceeding (whether of fact or of law) and to report a statement of decision; *provided* that at the option of any party to such proceeding, any such issues pertaining to a “provisional remedy” as defined in California Code of Civil Procedure Section 1281.8 shall be heard and determined by the court, and (b) without limiting the generality of Section 11.04, the Domestic Borrower shall be solely responsible to pay all fees and expenses of any referee appointed in such action or proceeding.

Section 11.17. No Advisory or Fiduciary Responsibility

. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Borrower and each other Loan Party acknowledges and agrees, and acknowledges their respective Affiliates’ understandings, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers, and the Lenders and their respective Affiliates are arm’s-length commercial transactions between each Borrower, each other Loan Party and their respective Affiliates, on the one hand, and the

Administrative Agent, the Arrangers and the Lenders and their respective Affiliates, on the other hand, (B) each Borrower and each other Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each Borrower and each other Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent, each Arranger and each Lender and their respective Affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for any Borrower, or any other Loan Party or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent nor any Arranger nor any Lender nor any of their respective Affiliates has any obligation to any Borrower, any other Loan Party or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Arrangers and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of any Borrower, any other Loan Party and their respective Affiliates, and neither the Administrative Agent, nor any Arranger, nor any Lender nor any of their respective Affiliates has any obligation to disclose any of such interests to any Borrower, any other Loan Party or any of their respective Affiliates. To the fullest extent permitted by law, each Borrower and each other Loan Party hereby waives and releases any claims that it may have against the Administrative Agent, any Arranger or any Lender or any of their respective Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 11.18. Electronic Execution of Assignments and Certain Other Documents

(a) The words “delivery,” “execute,” “execution,” “signed,” “signature,” and words of like import in any Loan Document or any other document executed in connection herewith shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; *provided* that notwithstanding anything contained herein to the contrary the Administrative Agent is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it; *provided, further*, without limiting the foregoing, upon the request of the Administrative Agent, any electronic signature shall be promptly followed by such manually executed counterpart. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Administrative Agent and each of the Secured Parties of a manually signed paper document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to this Agreement (each a “*Communication*”) which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention

(b) Each Borrower hereby acknowledges the receipt of a copy of this Agreement and all other Loan Documents. The Administrative Agent and each Lender may, on behalf of each Borrower, create a microfilm or optical disk or other electronic image of this Agreement and any or all of the other Loan Documents. The Administrative Agent and each Lender may store the electronic image of this Agreement and the other Loan Documents in its electronic form and then destroy the paper original as part of the Administrative Agent's and each Lender's normal business practices, with the electronic image deemed to be an original and of the same legal effect, validity and enforceability as the paper originals.

Section 11.19. USA PATRIOT Act

. Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrowers and the other Loan Parties that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the Act. Each Borrower and each Loan Party shall, promptly following a request by the Administrative Agent or any Lender, provide all such other documentation and information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Act.

Section 11.20. ENTIRE AGREEMENT

. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

Section 11.21. Judgment Currency

. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of each Loan Party in respect of any such sum due from it to the Administrative Agent or any Lender hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent or such Lender, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent or any Lender from any Loan Party in the Agreement Currency, such Loan Party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or such Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent or any Lender in such currency, the Administrative Agent or such Lender, as the case may be, agrees to return the amount of any excess to such Loan Party (or to any other Person who may be entitled thereto under Applicable Law).

Section 11.22. *Reserved*

Section 11.23. *Acknowledgment and Consent to Bail-In of Affected Financial Institutions*

. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an Affected Financial Institution; and
- (b) the effects of any Bail-in Action on any such liability, including, if applicable:
 - (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
 - (iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

Section 11.24. *Acknowledgment Regarding Any Supported QFCs.*

To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Swap Contract or any other agreement or instrument that is a QFC (such support, “*QFC Credit Support*”, and each such QFC, a “*Supported QFC*”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “*U.S. Special Resolution Regimes*”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

- (a) In the event a Covered Entity that is party to a Supported QFC (each, a “*Covered Party*”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered

Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 11.24, the following terms have the following meanings:

“*BHC Act Affiliate*” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“*Default Right*” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“*QFC*” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

Section 11.26. Subordination. Each Loan Party (a “*Subordinating Loan Party*”) hereby subordinates the payment of all obligations and indebtedness of any other Loan Party owing to it, whether now existing or hereafter arising, including but not limited to any obligation of any such other Loan Party to the Subordinating Loan Party as subrogee of the Secured Parties or resulting from such Subordinating Loan Party's performance under this Guaranty, to the indefeasible payment in full in cash of all Obligations. If the Secured Parties so request, any such obligation or indebtedness of any such other Loan Party to the Subordinating Loan Party shall be enforced and performance received by the Subordinating Loan Party as trustee for the Secured Parties and the proceeds thereof shall be paid over to the Secured Parties on account of the Obligations, but without reducing or affecting in any manner the liability of the Subordinating Loan Party under this Agreement. Without limitation of the foregoing, so long as no Default has occurred and is continuing, the Loan Parties may make and receive payments with respect to Intercompany Debt; *provided*, that in the event that any Loan Party receives any payment of any Intercompany Debt at a time when such payment is prohibited by this Section 11.25, such payment shall be held by such Loan Party, in trust for the benefit of, and shall be paid forthwith over and delivered, upon written request, to the Administrative Agent.

Section 11.27. Amendment and Restatement; No Novation

(a) This Agreement constitutes an amendment and restatement of the Existing Credit Agreement, as amended, effective from and after the Closing Date. The execution and delivery of this Agreement shall not constitute a novation of any debt or other obligations owing to the Lenders or the Administrative Agent under the Existing Credit Agreement or any other Loan Document based on facts or events occurring or existing prior to the execution and delivery of this Agreement. On the Closing Date, the credit facilities described in the Existing Credit Agreement, as amended, shall be amended, supplemented, modified and restated in their entirety by the credit facilities described herein, and all loans and other obligations of the Borrowers outstanding as of such date under the Existing Credit Agreement, as amended, to the extent not repaid in accordance with the terms herein, shall be deemed to be loans and obligations outstanding under the corresponding facilities described herein, without any further action by any Person, except that the Administrative Agent

shall make such transfers of funds as are necessary in order that the outstanding balance of such Loans, together with any Loans funded on the Closing Date, reflect the respective Commitments of the Lenders hereunder.

(a) On the Closing Date, (i) all outstanding loans under the Existing Credit Agreement (“*Existing Loans*”) made by any Person that is a “Lender” under the Existing Credit Agreement which is not a Lender hereunder (each, an “*Exiting Lender*”) shall be repaid in full and the commitments and other obligations and rights (except as expressly set forth in the Existing Credit Agreement) of such Exiting Lender shall be terminated, (ii) all outstanding Existing Loans constituting Revolving Loans under the Existing Credit Agreement that are not being repaid under clause (i) above shall be repaid in accordance with Section 4.01(c), if necessary, or if not necessary, be deemed Revolving Loan hereunder in accordance with Section 2.01(b) and the Administrative Agent shall make such transfers of funds as are necessary in order that the outstanding balance of such Revolving Loans, together with any Revolving Loans funded on the Closing Date, are in accordance with the relevant Applicable Percentages of the Lenders hereunder, (iii) all Outstanding Term Loan Obligations under the Existing Credit Agreement shall be continued and reconstituted as a Term Loan hereunder in accordance with Section 2.01(a)(i), (iv) there shall have been paid in cash in full all accrued but unpaid interest on the Existing Loans to the Closing Date, (v) there shall have been paid in cash in full all accrued but unpaid fees under the Existing Credit Agreement due to the Closing Date and all other amounts, costs and expenses then owing to any of the Existing Lenders and/or Bank of America, as administrative agent under the Existing Credit Agreement, (vi) all outstanding Letters of Credit under the Existing Credit Agreement shall be Letters of Credit hereunder and (vii) all outstanding promissory notes issued by the Borrowers to the Existing Lenders under the Existing Credit Agreement shall be promptly returned to the Administrative Agent which shall forward such notes to the Borrowers for cancellation and be replaced with amended and restated promissory notes.

(b) In furtherance of the foregoing the parties hereto hereby confirm that each of the Collateral Documents entered into in connection with the Existing Credit Agreement shall continue to be in full force and effect and is hereby in all respects ratified and reaffirmed as if fully restated as of the date hereof by this Credit Agreement; *provided* that: (a) all references therein to the “Credit Agreement” shall be deemed to be references to this Credit Agreement, (b) all references to “Administrative Agent” shall be deemed to be references to Bank of America, N.A., in its capacity as Administrative Agent under this Credit Agreement; and (c) all references to “Lenders” shall be deemed to be references to the Lenders under this Credit Agreement. The Collateral Documents are hereby confirmed, ratified and reaffirmed by this Credit Agreement and shall extend to, and shall secure and guaranty, or continue to secure and guarantee (as the case may be) the Obligations as defined herein and such Collateral Documents shall not be otherwise affected or discharged by the terms of this Credit Agreement.

[SIGNATURE PAGES FOLLOW]

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

DOMESTIC BORROWER:

DIODES INCORPORATED

By:

Name:

Title:

FOREIGN BORROWER:

DIODES HOLDINGS UK LIMITED

By:

Name:

Title:

FOREIGN GUARANTOR:

DIODES ZETEX LIMITED

By:

Name:

Title:

BANK OF AMERICA, N.A.,

DIODES INCORPORATED

SIGNATURE PAGE

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

as Administrative Agent

By:

Name:

Title:

BANK OF AMERICA, N.A.,

DIODES INCORPORATED

SIGNATURE PAGE

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

as a Lender, an L/C Issuer and Swingline Lender

By:

Name: Jennifer Yan

Title: Senior Vice President

BBVA USA

DIODES INCORPORATED

SIGNATURE PAGE

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

By: Name:
Title:

DIODES INCORPORATED
SIGNATURE PAGE
SECOND AMENDED AND RESTATED CREDIT AGREEMENT

PNC BANK, NATIONAL ASSOCIATION

By:
Name:
Title:

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CITIBANK, N.A.

By:
Name:
Title:

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REGIONS BANK

By:
Name:
Title:

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COMERICA BANK

By:

Name:

Title:

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SILICON VALLEY BANK

By:
Name:
Title:

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CADENCE BANK

By:
Name:
Title:

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HSBC BANK USA, N.A.

By:

Name:

Title:

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SECOND AMENDED AND RESTATED CREDIT AGREEMENT

SCHEDULE 2.01

Commitments and Applicable Percentages

Lender	Revolving Credit Commitment	Revolving Credit Applicable Percentage	Initial Term Commitment	Initial Term Facility Applicable Percentage	Acquisition Draw Term Commitment	Acquisition Draw Term Facility Applicable Percentage
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
[]	[]	[]	[]	[]	[]	[]
Total	\$150,000,000	100.00000000%	\$180,000,000	100.00000000%	\$340,000,000	100.00000000%

SCHEDULE 2.03

Letter of Credit Commitments

Lender	L/C Commitment
[]	[]
Total	\$10,000,000

SCHEDULE 6.16

Post-Closing Matters

1. Not later than thirty (30) days following the Closing Date (unless extended by the Administrative Agent in its sole discretion), the Borrowers shall deliver to the Administrative Agent appropriate documentary evidence that Diodes Zetex Limited and Diodes Holdings UK Limited have made all filings necessary to duly register the UK Debenture against the Intellectual Property Rights as defined and described therein, and shall deliver to the Administrative Agent official entry evidence of such registrations promptly following receipt by the relevant Loan Parties. “*UK Debenture*” means the English law debenture granted by Diodes Zetex Limited and Diodes Holdings UK Limited in favor of the Administrative Agent in accordance with Section 4.01(a)(iii)(a) and dated as of the Closing Date.
 2. Not later than thirty (30) days following the Lite-On Acquisition Date (unless extended by the Administrative Agent in its sole discretion), the Borrowers shall deliver to the Administrative Agent all original share certificates representing the Equity Interests in Lite-On owned by Diodes Technologies Taiwan duly endorsed and pledged in favor of the Administrative Agent by Diodes Technologies Taiwan, and a supplemental favorable opinion of Jones Day, local counsel to the Loan Parties in Taiwan, addressed to the Administrative Agent and each Lender, as to the delivery of such certificates representing the Equity Interests in Lite-On to the Administrative Agent.
 3. Not later than five (5) Business Days following the Closing Date (unless extended by the Administrative Agent in its sole discretion), the Borrowers shall deliver to the Administrative Agent certificates of insurance, naming the Administrative Agent, on behalf of the Secured Parties, as an additional insured or lender’s loss payee, as the case may be, under all liability and property insurance policies maintained with respect to the assets and properties of the Domestic Loan Parties that constitutes Collateral, and the necessary endorsements with respect to each such insurance certificate, in each case in form, scope, and substance satisfying the requirements of Section 5.10 and otherwise reasonably satisfactory to the Administrative Agent.
 4. Not later than thirty (30) days following the Closing Date (unless extended by the Administrative Agent in its sole discretion), the Borrowers shall deliver to the Administrative Agent Schedule 5.10 to the Credit Agreement, in form, scope, and substance satisfying the requirements of Section 5.10 and otherwise reasonably satisfactory to the Administrative Agent.
-

**ADMINISTRATIVE AGENT'S OFFICE;
CERTAIN ADDRESSES FOR NOTICES**

DIODES INCORPORATED:

Domestic Borrower or any Global Guarantor:

[]

Foreign Borrower or any Foreign Guarantor:

[]

ADMINISTRATIVE AGENT:

Administrative Agent's Office

(For financial/loan activity – advances, pay down, interest/fee billing and payments, rollovers, rate-settings):

[]

USD PAYMENT INSTRUCTIONS:

[]

EUR PAYMENT INSTRUCTIONS:

[]

GBP PAYMENT INSTRUCTIONS:

[]

Other Notices as Administrative Agent

:

(For financial statements, compliance certificates, maturity extension and commitment change notices, amendments, consents, vote taking, etc)

[]

L/C ISSUER'S OFFICE (FOR BANK OF AMERICA, N.A.):

(For fee payments due LC Issuer only and new LC requests and amendments):

[]

Remittance Instructions:

[]

SWINGLINE LENDER'S OFFICE:

[]

SUBSIDIARIES OF THE REGISTRANT

Subsidiary Name	Incorporated Location	Holding Company (1) or Subsidiary (2)	Percentage Owned
Azer (BVI) Crystal Technology Co., Ltd.	British Virgin Islands	2	100%
Azer (BVI) Crystal Technology Co., Ltd.	British Virgin Islands	2	100%
BCD Shanghai Micro-Electronics Company Limited	China	2	100%
BCD Semiconductor Manufacturing Limited	Cayman Islands	1	100%
Canyon Semiconductor Inc.	Taiwan	2	50.98%
Diodes (Shanghai) Investment Company Limited	China	1	100%
Diodes Electronic (Shenzhen) Company Limited	China	2	100%
Diodes Fast Analog Solutions Limited	United Kingdom	2	100%
Diodes Holdings UK Limited	United Kingdom	1	100%
Diodes Hong Kong Limited	Hong Kong	1	100%
Diodes Japan K.K.	Japan	2	100%
Diodes Kaihong (Shanghai) Company Limited	China	2	100%
Diodes Korea Inc	Korea	2	100%
Diodes Semiconductors GB Limited	United Kingdom	2	100%
Diodes Taiwan S.a. r.l	Luxembourg	1	100%
Diodes Taiwan S.a. r.l., Taiwan Branch (Luxembourg)	Taiwan	2	100%
Diodes Technologies Taiwan Co., Ltd.	Taiwan	1	100%
Diodes Technology (Chengdu) Company Limited	China	2	98.02%
Diodes Zetex GmbH	Germany	2	100%
Diodes Zetex Limited	United Kingdom	2	100%
Diodes Zetex Neuhaus GmbH	Germany	2	100%
Diodes Zetex Semiconductors Limited	United Kingdom	2	100%
Dyna Image Corp.	Philippines	2	100%
Dyna Image Corporation	Taiwan	2	62.79%
Dyna International Co., Ltd.	British Virgin Islands	1	100%
Dyna International Holding Co., Ltd.	British Virgin Islands	1	100%
Eris Technology Corporation	Taiwan	2	51.07%
Jiyuan Crystal Photoelectric Frequency Technology Co. Ltd.	China	2	49%
Lite-On Microelectronics (Wuxi) Co., Ltd.	China	2	100%
Lite-On Semiconductor (Wuxi) Co., Ltd.	China	2	100%
Lite-On Semiconductor American Inc.	USA	2	100%
Lite-On Semiconductor Corp.	Taiwan	2	100%
Lite-On Semiconductor HK Limited	Hong Kong	1	100%
Lyra Semiconductor Incorporated	Taiwan	2	50.01%
Pericom Technology (Shanghai) Company Limited	China	2	100%
Pericom Technology (Yangzhou) Corporation	China	2	100%
PSE Technology (Shandong) Corporation	China	2	100%
PSE Technology Corporation	Taiwan	2	100%
Savitech Corp.	Taiwan	2	33.64%
Shanghai Kaihong Electronic Company Limited.	China	2	95%
Shanghai Kaihong Technology Company Limited	China	2	95%
Shanghai Seeful Electronic Co., Ltd.	China	2	100%
SIM-BCD Semiconductor Manufacturing Co. Ltd.	China	2	100%
Smart Power Holdings Group Co., Ltd.	British Virgin Islands	1	100%
TF Semiconductor Solutions, Inc	Delaware	2	67.60%
WBG Power Systems (Cayman) Co., Ltd.	Cayman Islands	1	65%
WBG Power Systems (Hong Kong) Co., Ltd.	Hong Kong	2	100%
Yea Shin Technology Co., Ltd.	Taiwan	2	99.52%
Zetex (Chengdu) Electronics Limited	China	2	95%

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements of Diodes Incorporated of our report dated February 19, 2021, related to the consolidated financial statements of Diodes Incorporated and Subsidiaries (the "Company") (which report expresses an unqualified opinion) and the effectiveness of internal control over financial reporting of the Company appearing in this Annual Report on Form 10-K for the year ended December 31, 2020:

- Registration Statements on Form S-8 (No. 333-106775, No. 333-124809 and No. 333-189299) pertaining to the 2001 Omnibus Equity Incentive Plan of Diodes Incorporated; and
- Registration Statements on Form S-8 (No. 333-189298, No. 333-212327 and No. 333-220019) pertaining to the Diodes Incorporated 2013 Equity Incentive Plan.

/s/ Moss Adams LLP

Los Angeles, California
February 19, 2021

CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, **Keh-Shew Lu**, certify that:

1. I have reviewed this Annual Report on Form 10-K of Diodes Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Keh-Shew Lu

Keh-Shew Lu

Chief Executive Officer

Date: February 19, 2021

CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, **Brett R. Whitmire**, certify that:

1. I have reviewed this Annual Report on Form 10-K of Diodes Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Brett R. Whitmire

Brett R. Whitmire
Chief Financial Officer
Date: February 19, 2021

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

The undersigned hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to his knowledge, the Annual Report on Form 10-K for the twelve-month period ended December 31, 2020, of Diodes Incorporated (the "Company") fully complies with the requirements of Sections 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and that the information contained in such Annual Report fairly presents, in all material respects, the financial condition and results of operations of the Company as of, and for, the periods presented in such report.

/s/ Keh-Shew Lu

Keh-Shew Lu

Chief Executive Officer

Date: February 19, 2021

A signed original of this written statement required by Section 906 has been provided to Diodes Incorporated and will be retained by Diodes Incorporated and furnished to the Securities and Exchange Commission or its staff upon request.

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

The undersigned hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to his knowledge, the Annual Report on Form 10-K for the twelve-month period ended December 31, 2020, of Diodes Incorporated (the "Company") fully complies with the requirements of Sections 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and that the information contained in such Annual Report fairly presents, in all material respects, the financial condition and results of operations of the Company as of, and for, the periods presented in such report.

/s/ Brett R. Whitmire

Brett R. Whitmire

Chief Financial Officer

Date: February 19, 2021

A signed original of this written statement required by Section 906 has been provided to Diodes Incorporated and will be retained by Diodes Incorporated and furnished to the Securities and Exchange Commission or its staff upon request.