

SECURITIES AND EXCHANGE COMMISSION

FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

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FILER

MERIX CORP

CIK: **921365** | IRS No.: **931135197** | State of Incorporation: **OR** | Fiscal Year End: **0529**
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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 10-Q

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

For the quarterly period ended August 27, 2005

OR

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

Commission file number 0-23818

MERIX CORPORATION

(Exact name of registrant as specified in its charter)

OREGON

(State or other Jurisdiction of
Incorporation or Organization)

1521 Poplar Lane, Forest Grove, Oregon

(Address of principal executive offices)

93-1135197

(I.R.S. Employer
Identification Number)

97116

(Zip Code)

(503) 359-9300

(Registrant's telephone number)

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 the filing requirements for the past 90 days. Yes No

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

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

The number of shares of the Registrant's Common Stock outstanding as of October 7, 2005 was 19,477,797 shares.

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PART I. FINANCIAL INFORMATION

**MERIX CORPORATION
CONSOLIDATED BALANCE SHEETS
(in thousands, unaudited)**

	August 27, 2005	May 28, 2005
Assets		
Cash and cash equivalents	\$34,014	\$9,130
Short-term investments	44,575	68,555
Accounts receivable, net of allowance of \$883 and \$932, respectively	35,529	37,338
Inventories	13,627	11,227
Other current assets	2,871	2,451
Total current assets	130,616	128,701
Property, plant and equipment, net	84,576	88,132
Goodwill	25,551	25,551
Identifiable intangibles, net	9,003	9,754
Other assets	2,402	1,803
Total assets	\$252,148	\$253,941

Liabilities and Shareholders' Equity

Accounts payable	\$17,311	\$16,957
Accrued compensation	2,973	4,721
Accrued warranty	1,543	1,519
Other accrued liabilities	4,561	4,773
Current portion of long-term debt	1,000	1,000
Total current liabilities	27,388	28,970
Long-term debt	26,000	26,000
Other long-term liability	976	960
Total liabilities	54,364	55,930
Commitments and contingencies (Note 12)	—	—
Shareholders' equity:		
Preferred stock, no par value; authorized 10,000 shares; none issued	—	—
Common stock, no par value; authorized 50,000 shares; issued and outstanding August 27, 2005: 19,448 shares		
May 28, 2005: 19,341 shares	202,145	201,458
Unearned stock compensation	(761)	(392)

Accumulated deficit	(3,600)	(3,055)
Total shareholders' equity	197,784	198,011
Total liabilities and shareholders' equity	\$252,148	\$253,941

The accompanying notes are an integral part of the financial statements.

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MERIX CORPORATION
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share amounts, unaudited)

	Three Months Ended	
	August 27, 2005	August 28, 2004
Net sales	\$51,787	\$42,130
Cost of sales	44,172	37,737
Gross profit	7,615	4,393
Operating expenses:		
Engineering	1,492	1,801
Selling, general and administrative	4,875	4,527
Amortization of identifiable intangibles	751	-
Severance and impairment charges	1,135	-
Total operating expenses	8,253	6,328
Operating loss	(638)	(1,935)
Interest and other income (expense), net	97	(38)
Loss before taxes	(541)	(1,973)

Income tax expense	4	1
Net loss	\$(545)	\$(1,974)
Net loss per share:		
Basic	\$(0.03)	\$(0.10)
Diluted	\$(0.03)	\$(0.10)
Shares used in per share calculations:		
Basic	19,376	19,113
Diluted	19,376	19,113

The accompanying notes are an integral part of the financial statements.

MERIX CORPORATION
CONSOLIDATED STATEMENT OF SHAREHOLDERS' EQUITY
(in thousands, unaudited)

	Common Stock		Unearned Stock Compensation	Accumulated Deficit	Total
	Shares	Amount			
Balance at May 28, 2005	19,341	\$201,458	\$ (392)	\$ (3,055)	\$198,011
Net loss	-	-	-	(545)	(545)
Issuance of stock under defined contribution plan	50	319	-	-	319
Issuance of restricted stock to employees	58	374	(374)	-	-
Amortization of unearned stock compensation	-	-	5	-	5
Shares repurchased, surrendered or canceled	(1)	(6)	-	-	(6)
Balance at August 27, 2005	19,448	\$202,145	\$ (761)	\$ (3,600)	\$197,784

The accompanying notes are an integral part of the financial statements.

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MERIX CORPORATION
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands, unaudited)

	<u>Three Months Ended</u>	
	<u>August 27,</u> <u>2005</u>	<u>August 28,</u> <u>2004</u>
Cash flows from operating activities:		
Net loss	\$(545)	\$(1,974)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	4,469	3,293
Contribution of common stock to defined contribution plan	319	434
Loss on impairment and disposal of fixed assets	502	26
Expense for stock based compensation	5	24
Other	-	6
Changes in assets and liabilities:		
Accounts receivable	1,809	(925)
Inventories	(2,400)	98
Other assets	(1,093)	(435)
Accounts payable	1,259	(462)
Accrued compensation	(1,748)	(1,252)

Accrued warranty	24	25
Other accrued liabilities	(212)	32
Net cash provided by (used in) operating activities	2,389	(1,110)
Cash flows from investing activities:		
Capital expenditures	(1,479)	(6,619)
Investment		
Purchases	(6,800)	(54,425)
Sales and maturities	30,780	60,995
Net cash provided by (used in) investing activities	22,501	(49)
Cash flows from financing activities:		
Exercise of stock options	-	187
Shares repurchased, surrendered or cancelled	(6)	-
Net cash (used in) provided by financing activities	(6)	187
Increase (decrease) in cash and cash equivalents	24,884	(972)
Cash and cash equivalents at beginning of period	9,130	7,355

Cash and cash equivalents at end of period	\$34,014	\$6,383
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Supplemental non-cash activity:

Issuance of restricted stock to employees	\$374	\$327
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Increase to the asset retirement obligation	\$-	\$256
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Supplemental disclosures:

Cash paid for interest	\$430	\$405
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The accompanying notes are an integral part of the financial statements.

MERIX CORPORATION
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, unaudited)

Note 1. BASIS OF PRESENTATION

The accompanying unaudited consolidated financial statements of Merix Corporation have been prepared pursuant to Securities and Exchange Commission rules and regulations. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to such rules and regulations. These financial statements should be read in conjunction with the audited financial statements and notes thereto included in Merix Corporation's Annual Report on Form 10-K for the fiscal year ended May 28, 2005.

Merix Corporation's fiscal year is the 52 or 53-week period ending the last Saturday in May. Fiscal years 2005 and 2006 are 52-week years ending May 28, 2005 and May 27, 2006, respectively. The financial information included herein reflects all normal recurring adjustments that are, in the opinion of management, necessary for a fair statement of the results for interim periods. The results of operations for the three months ended August 27, 2005 are not necessarily indicative of the results to be expected for the full fiscal year.

Principles of consolidation

The consolidated financial statements include the accounts of Merix Corporation and its wholly-owned subsidiaries. All inter-company accounts and transactions have been eliminated in consolidation.

Short-term Investments

Investments in auction rate securities are classified as available-for-sale short-term investments. Available-for-sale securities are recorded at fair value, and unrealized holding gains and losses, if any, are recorded, net of tax, as a separate component of accumulated other comprehensive income (loss). Investments classified as held-to-maturity with original maturities of more than three months, but less than a year are classified as short-term investments. The specific identification method is used to determine the cost of securities sold.

As of August 27, 2005 and May 28, 2005, the Company held \$44,575 and \$68,555 respectively, of short-term investments, which consisted of auction rate securities. There were no cumulative gross unrealized holding gains (losses) or gross realized gains (losses) from short-term investments. In accordance with Accounting Research Bulletin No. 43, Chapter 3A. "Working Capital-Current Assets and Current Liabilities," the Company views its available-for-sale portfolio as available for use in its current operations. All income generated from these short-term investments was recorded as interest income. Although the underlying instruments have maturities of up to 40 years, based on historical experience in the financial markets as well as the Company's specific experience, the Company believes there is a reasonable expectation of completing a successful auction within the subsequent twelve-month period. During its history in investing in these securities, the Company has been able to sell its holdings of these investments. Accordingly, the Company believes that the risk of non-redemption of these investments within a year to be minimal.

Revision in the Classification of Certain Securities

Certain previously reported amounts have been reclassified to conform to the current period presentation. At February 26, 2005, the Company reclassified its investments in auction rate securities from cash and cash equivalents to short-term investments for the current and all prior periods. Corresponding adjustments to the Consolidated Statement of Cash Flows for the three months ended August 28, 2004 have also been made to reflect the gross purchases and sales of these securities as investing activities rather than as a component of cash and cash equivalents. The change in classification does not affect cash flows from operations or from financing activities for any period previously reported in the Consolidated Statements of Cash Flows, nor does it affect net income or loss for any period previously reported in the Consolidated Statements of Operations.

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Reclassifications for the quarter ended August 28, 2004 are as follows:

As Reported			As Reclassified		
Cash and Cash Equivalents	Short-term Investments	Total	Cash and Cash Equivalents	Short-term Investments	Total
\$ 116,988	\$ -	\$ 116,988	\$6,383	\$110,605	\$ 116,988

As Reported			As Reclassified		
Investment		Net cash provided by (used in) investing activities	Investment		Net cash provided by (used in) investing activities
Purchases	Maturities		Purchases	Maturities	
\$-	\$ -	\$ (6,619)	\$(54,425)	\$60,995	\$ (49)

Recent Accounting Pronouncements

On October 22, 2004, the American Jobs Creation Act of 2004 (the “Jobs Act”) was enacted in the United States. In December 2004, the FASB issued FASB Staff Position FAS No. 109-1, “Application of FASB Statement No. 109, Accounting for Income Taxes, to the Tax Deduction on Qualified Production Activities Provided by the American Jobs Creation Act of 2004” (“FSP 109-1”). FSP 109-1 provides that the tax deduction for income with respect to qualified domestic production activities will be treated as a special deduction as described in SFAS No. 109. As a result, this deduction has no effect on the Company’s deferred tax assets and liabilities existing at the date of enactment. Rather, the impact of this deduction, if any, which was effective January 1, 2005, will be reported in the period in which the deduction is claimed on the Company’s income tax returns.

FASB Staff Position FAS No. 109-2, “Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004” (“FSP 109-2”), provides guidance under FASB Statement No. 109, “Accounting for Income Taxes,” with respect to recording the potential impact of the repatriation provisions of the Jobs Act on enterprises’ income tax expense and deferred tax liability. FSP 109-2 states that an enterprise is allowed time beyond the financial reporting period of enactment to evaluate the effect of the Jobs Act on its plan for reinvestment or repatriation of foreign earnings for purposes of applying SFAS No. 109. Merix has not yet evaluated the impact, if any, of the repatriation provisions on the Company’s tax accruals or effective tax rate.

In November 2004, the FASB issued SFAS No. 151, “Inventory Costs – An Amendment of ARB No. 43, Chapter 4” (“SFAS 151”). SFAS 151 amends the guidance in ARB No. 43, Chapter 4, “Inventory Pricing,” to clarify the accounting for abnormal amounts of idle facility expense, freight, handling costs, and wasted material (spoilage) and requires that those items be recognized as current-period charges. Additionally, SFAS 151 requires that the allocation of fixed production overheads to the costs of conversion be based on the normal capacity of the production facilities. SFAS 151 is effective for fiscal years beginning after June 15, 2005 and is required to be adopted by Merix in the first quarter of fiscal 2007, beginning May 28, 2006. Merix is currently evaluating the effect that the adoption of SFAS 151 will have on its consolidated results of operations and financial condition and does not expect the adoption to have a material impact.

In December 2004, the FASB issued SFAS No. 123 (revised 2004), “Share-Based Payment” (“SFAS 123R”), which replaces SFAS No. 123, “Accounting for Stock-Based Compensation,” (“SFAS 123”), and supersedes APB Opinion No. 25, “Accounting for Stock Issued to Employees.” SFAS 123R requires all share-based payments to employees, including grants of employee stock options, to be recognized in the financial statements based on their fair values. The effective date for the Company is fiscal 2007, beginning May 28, 2006. On March 29, 2005, the Securities and Exchange Commission issued Staff Accounting Bulletin No. 107 (“SAB 107”), which provides the Staff’s views regarding interactions between SFAS 123R and certain SEC rules and regulations, and provides interpretations of the valuation of

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share-based payments for public companies. SAB 107 covers key topics related to the implementation of SFAS 123R which include the valuation models, expected volatility, expected option term, income tax effects of SFAS 123R, classification of stock-based compensation cost, capitalization of compensation costs, and disclosure requirements. The Company is evaluating the requirements of SFAS 123R and SAB 107 and expects that the adoption of these pronouncements will have a material impact on its consolidated results of operations and earnings per share. Merix has not yet determined whether the adoption will result in amounts that are similar to the current pro forma disclosures under SFAS 123.

In June 2005, the FASB issued Statement No. 154, "Accounting Changes and Error Corrections" (SFAS 154), a replacement of APB Opinion No. 20, "Accounting Changes", and Statement No. 3, "Reporting Accounting Changes in Interim Financial Statements." SFAS 154 changes the requirements for the accounting for and the reporting of a change in accounting principle. Previously, most voluntary changes in accounting principles required recognition by recording a cumulative effect adjustment within net income in the period of change. SFAS 154 requires retrospective application to prior periods' financial statements, unless it is impracticable to determine either the specific period effects or the cumulative effect of the change. SFAS 154 is effective for accounting changes made in fiscal years beginning after December 15, 2005. The Company does not believe SFAS 154 will have a material effect on its consolidated financial position, results of operations or cash flows.

Note 2. BUSINESS ACQUISITION

On December 9, 2004, Merix Corporation purchased all of the outstanding capital stock of Data Circuit Holdings, Inc., the parent of Merix San Jose, Inc. ("Merix San Jose"). The results of Merix San Jose have been included in the consolidated financial statements since the date of acquisition. The aggregate purchase price of \$44,012 included cash of \$41,646 (including cash acquired of \$339), a \$2,000 promissory note, and \$366 of direct acquisition costs. Interest of 5% on the promissory note is payable quarterly and principal payments of \$1,000 are due annually.

In accordance with SFAS No. 141 "Business Combinations," the Company recorded the acquisition under the purchase method of accounting. The purchase price has been allocated to tangible and identifiable intangible assets acquired and liabilities assumed based on their respective fair values. The excess purchase price over the fair value of tangible and intangible assets acquired and liabilities assumed was recorded as goodwill.

Goodwill resulting from the acquisition of Merix San Jose is accounted for in accordance with SFAS No. 142 "Goodwill and Other Intangible Assets." Accordingly, goodwill is not amortized. Instead, goodwill is reviewed and tested for impairment on an annual basis, or more frequently, if impairment indicators arise. The Company completed its most recent annual goodwill impairment analysis as of May 28, 2005 and concluded that as of May 28, 2005, there was no goodwill impairment.

The following presents the details of identifiable intangible assets acquired and the unamortized value as of August 27, 2005:

	<u>August 27, 2005</u>		<u>May 28, 2005</u>	
	<u>Cost</u>	<u>Accumulated Amortization</u>	<u>Net, Intangibles</u>	<u>Net, Intangibles</u>
Amortizable intangible assets				
Customer relationships	\$9,900	\$ (1,705)	\$ 8,195	\$ 8,794
Non-compete agreement	1,200	(427)	773	923

Manufacturing sales representatives network

40 (5) 35 37

Total intangibles purchased

\$11,140 \$ (2,137) \$ 9,003 \$ 9,754

The Company's purchased intangible assets have remaining lives ranging from 1 to 6 years. The Company performs reviews for impairment of all its purchased intangible assets whenever events or

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changes in circumstances indicate that the carrying amount of an asset may not be recoverable. As of August 27, 2005, management concluded there was no indication of events or changes in circumstances indicating that the carrying amount of purchased intangible assets may not be recoverable. Amortization expense for intangible assets acquired was \$751 for the quarter ended August 27, 2005 and has been disclosed as a separate line item in the Consolidated Statements of Operations. The estimated future amortization expense of purchased intangible assets as of August 27, 2005 is as follows:

Fiscal Year	Amortization Expense
2006 (remaining 9 months)	\$ 1,936
2007	2,018
2008	1,550
2009	1,255
Thereafter	2,244
	<u>\$ 9,003</u>

The following unaudited pro forma financial information presents the consolidated results of operations as if the acquisition had occurred at the beginning of the three month period ended August 28, 2004.

	Three months ended August 28, 2004
Net sales	\$ 49,645
Net income (loss)	\$ (1,948)
Earnings (loss) per share:	
Basic	\$ (0.10)
Diluted	\$ (0.10)

The pro forma information is not necessarily indicative of the results that would have occurred had the acquisition been completed at the beginning of the periods presented, nor is it necessarily indicative of future results.

Note 3. INVENTORIES

	August 27, 2005	May 28, 2005
Raw materials	\$4,246	\$2,768
Work in process	5,660	4,260
Finished goods	3,721	4,199
Total	\$13,627	\$11,227

Note 4. PROPERTY, PLANT AND EQUIPMENT

	August 27, 2005	May 28, 2005
Land	\$2,190	\$2,190
Buildings and grounds	34,150	34,404
Leasehold improvements	18,043	17,985
Machinery and equipment	115,098	115,195
Construction in progress	5,230	5,948
Total	174,711	175,722
Accumulated depreciation and amortization	(90,135)	(87,590)
Property, plant and equipment, net	\$84,576	\$88,132

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Note 5. NET LOSS PER SHARE

Basic income (loss) per share is computed using the weighted average number of shares of common stock outstanding for the period. Diluted net income per share is computed using the weighted average number of shares of common stock and potentially dilutive common shares related to stock options and the convertible debenture outstanding during the period. No incremental shares were included in the calculations of net loss per share for the quarters ended August 27, 2005 and August 28, 2004.

The following incremental shares were excluded from the calculation of diluted net loss because including these shares would have been antidilutive:

	Three months ended	
	August 27, 2005	August 28, 2004
Incremental shares related to:		
Outstanding stock options	3,177,955	1,616,484
Convertible debenture	1,287,996	1,287,996
Total	4,465,951	2,904,480

Note 6. STOCK BASED COMPENSATION PLAN

The Company accounts for its stock-based compensation in accordance with the provisions of Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees," and complies with the disclosure provisions of Statement of Financial Accounting Standards No. 123, "Accounting for Stock-Based Compensation." If the Company had used the fair value based method of accounting for its plans, the Company's net income (loss) and net loss per share would approximate the pro forma disclosures below:

	Three months ended	
	August 27, 2005	August 28 2004
Net loss, as reported	\$ (545)	\$ (1,974)
Add: Stock-based employee compensation expense included in reported net loss	5	24
Deduct: Total stock based compensation expense determined under the fair value method for all awards	(131)	(1,343)

Net loss pro forma			\$ (671)	\$ (3,293)
Net loss per share, as reported				
Basic			\$ (0.03)	\$ (0.10)
Diluted			\$ (0.03)	\$ (0.10)
Net loss per share, pro forma				
Basic			\$ (0.03)	\$ (0.17)
Diluted			\$ (0.03)	\$ (0.17)
Weighted average assumptions:				
Risk-free interest rate			3.93 %	2.28 %
Expected dividend yield			0 %	0 %
Expected lives			1.90	2.77
Expected volatility			55 %	72 %

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Note 7. ACCRUED WARRANTY

Warranty activity for the three months ended August 27, 2005 and August 28, 2004 consisted of the following:

	Three months ended	
	August 27, 2005	August 28, 2004
Accrued warranty at the beginning of the period	\$ 1,519	\$ 1,061
Accruals for warranties issued during the period	1,002	574
Accruals or changes in estimates related to pre-existing warranties	(416)	(83)
Settlements made during the period	(562)	(466)
Accrued warranty at the end of the period	\$ 1,543	\$ 1,086

Note 8. ASSET RETIREMENT OBLIGATIONS

In accordance with SFAS No. 143, "Accounting for Asset Retirement Obligations" ("FAS 143") the company has recorded asset retirement obligations related to restoring the Wood Village and Merix San Jose facilities to shell condition upon termination of the leases in place at those facilities. Activity related to asset retirement obligations for the three months ended August 27, 2005 and August 28, 2004 consisted of the following:

	Three months ended	
	August 27, 2005	August 27, 2004
Asset retirement obligations at the beginning of the period	\$ 960	\$ 368
Liabilities incurred in the period	-	-
Liabilities settled in the period	-	-
Revisions in estimated cash flows	-	256

Accretion expense	16	6
Asset retirement obligations at the end of the period	\$ 976	\$ 630

Note 9. CONCENTRATIONS OF CREDIT RISK

The Company does not believe that at August 27, 2005, it had any significant credit risks. Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of investments and trade accounts receivable. The risk in investments is limited due to the creditworthiness of investees comprising the portfolio and the diversity of the portfolio. For the purposes of evaluating risk in receivables, the Company considers the entity from which the receivable is due, which can be either an original equipment manufacturer (“OEM”) customer or its electronic manufacturing service provider, depending upon the billing arrangement. In total, five entities represented approximately 65% of the trade accounts receivable balance at August 27, 2005, individually ranging from 6% to 34%. Forty-eight percent of trade accounts receivable, all of which are denominated in U.S. dollars, are with entities located outside of the United States. The Company believes the risk in trade accounts receivable is limited due to the creditworthiness of entities that the Company sells to and the relatively stable geopolitical environment of the countries in which these entities reside. The Company has not had significant losses related to its accounts receivable in the past.

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Note 10. NET SALES BY GEOGRAPHIC AREA

Net sales by geographic area are attributed to the country in which the OEM customer is domiciled, as opposed to the domicile of its electronic manufacturing service provider, if any. Because most sales to electronic manufacturing service providers are directed by the OEM customer, which negotiates product pricing and volumes directly with the Company, the geographic locale of the electronic manufacturing service provider does not materially affect the Company's sales. Based on the domicile of the OEM customer, there were no material revenues from any individual foreign country for the periods ended August 27, 2005 and August 28, 2004.

Net sales by geographic area are as follows:

	Three months ended	
	August 27, 2005	August 28, 2004
Domestic	\$44,015	\$36,595
Europe	4,402	4,695
Other	3,370	840
Total	\$51,787	\$42,130

The Company's five largest OEM customers, who vary from quarter to quarter, comprised 55% and 64% of our net sales during the first quarter of fiscal 2006 and fiscal 2005, respectively. One domestic OEM customer accounted for 27% and another for 12% of net sales in the first quarter of fiscal 2006, one domestic OEM customer accounted for 27% and another for 20% of net sales in the first quarter of fiscal 2005.

Note 11. SEVERANCE AND IMPAIRMENT CHARGES

During the first quarter of fiscal 2006, the Company executed cost reduction actions that included a reduction in headcount across our manufacturing and support organizations, predominantly in Oregon, of approximately 130 positions. The Company recorded a charge of \$658 related to severance costs and \$477 for the impairment of certain fixed assets. As of August 27, 2005, the Company's accrued liability relating to severance costs was \$106.

Note 12. COMMITMENTS AND CONTINGENCIES

Litigation

In the normal course of business, the Company is party to various legal claims, actions and complaints.

On June 17, 2004, the Company and certain of its executive officers and directors were named as defendants in the first of four purported class action lawsuits alleging violations of federal securities laws. These four cases, which were filed in the United States District Court for the District of Oregon, have now been consolidated in a single action entitled In re Merix Securities Litigation, Lead Case No. CV 04-826-MO. A lead plaintiff was appointed, who filed a consolidated and amended class action complaint on November 15, 2004. In the

consolidated and amended complaint, lead plaintiff alleges that the defendants violated the federal securities laws by making certain allegedly false and misleading statements. The lead plaintiff seeks unspecified damages on behalf of a purported class of purchasers of the Company' s securities during the period from October 14, 2003, through May 13, 2004. On February 25, 2004, the defendants filed a motion to dismiss the amended and consolidated complaint for failure to identify with sufficient specificity the statements that plaintiffs allege to have been false and why the statements were either false when made or material. On September 15, 2005, the court granted that motion without prejudice and gave plaintiffs leave to amend their complaint. The Company intends to continue to vigorously defend itself and the officer and director defendants.

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On July 2, 2004, two derivative lawsuits were filed in the Circuit Court for the State of Oregon, County of Multnomah, against certain of the Company's officers and directors based on the same allegations made in the class action lawsuit. The Company is named as a nominal defendant in these derivative lawsuits, which have now been consolidated under the common caption *In re Merix Corporation Derivative Litigation*, Lead Case No. 0407-06807. On April 29, 2005, plaintiffs filed a consolidated shareholder derivative complaint in which they allege breaches of fiduciary duties and mismanagement by the defendants. Plaintiffs seek unspecified damages from the defendants, purportedly on behalf of the Company, as well as the derivative plaintiffs' attorneys' fees and costs. On August 31, 2005, the federal court hearing the class action lawsuit described above granted a motion to stay discovery in this state-court derivative action. On September 13, 2005, the state court stayed all proceedings in the derivative lawsuit pending further developments in the federal class action lawsuit, including all proceedings on a motion that the defendants filed on July 7, 2005 to dismiss the consolidated shareholder derivative complaint.

In each complaint, the plaintiffs seek unspecified damages from the defendants. A potential loss or range of loss that could arise from these complaints is not estimable or probable at this time. The Company has recorded charges for estimated probable costs associated with defending these claims, as it is the Company's policy to accrue legal fees when it is probable that the Company will have to defend itself against known claims or allegations and it can reasonably estimate the amount of anticipated expense.

Environmental Matters

The process to manufacture printed circuit boards requires adherence to city, county, state and federal environmental regulations regarding the storage, use, handling and disposal of chemicals, solid wastes and other hazardous materials as well as air quality standards. Management believes that its facilities comply in all material respects with environmental laws and regulations. The Company has in the past received certain notices of violations and has been required to engage in certain minor corrective activities. There can be no assurance that violations will not occur in the future.

Commitments

As of August 27, 2005, the Company had capital commitments of approximately \$2,018, primarily relating to the purchase of manufacturing equipment.

For the remainder of fiscal 2006 and in years following, consolidated future minimum lease payments under noncancelable operating leases in effect August 27, 2005 for Wood Village and San Jose facilities are as follows:

Years Ending May 31,	Minimum Payments under Operating Leases
2006 (9 months remaining)	\$ 875
2007	1,015
2008	852
2009	799
Thereafter	1,436

The Company has consignment agreements with certain suppliers for raw material inventory, some of which obligate the Company to purchase inventory on hand upon termination of the agreement. As of the end of the first quarter of fiscal 2006, potential commitments under these agreements were insignificant.

Note 13. SUBSEQUENT EVENTS

On September 29, 2005, the Company acquired the business operations of Eastern Pacific Circuits Limited (“EPC”), a Hong Kong based supplier of printed circuit boards. The purchase consideration was \$115.0 million, subject to post-closing adjustment based on the working capital of the acquired business on September 29, 2005. Additional cash consideration of up to \$13.0 million may be payable by the Company

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under an earn-out provision based on calendar 2005 adjusted EBITDA of the acquired business. The purchase price allocation will be determined by independent appraisal of the assets and liabilities of the business. The appraisal is expected to be finalized in the second quarter and will result in the write-up of inventories, equipment and real estate, and in the recording of intangible assets, some of which will be amortized to expense. The Company financed the acquisition with a combination of approximately \$32.8 million of available cash, term loans and revolving credit borrowings of approximately \$71.2 million under two new credit facilities and the issuance of an \$11.0 million subordinated promissory note to the seller. The operations of EPC will be included in the Company' s consolidated results beginning September 29, 2005. As permitted by regulations of the Securities and Exchange Commission, Merix will consolidate EPC' s results on a one-month lag with those of the Company' s U.S. operations. Accordingly, the Company' s second fiscal quarter ending November 26, 2005 will include the operations of EPC for the period September 29 through October 22.

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

This Quarterly Report contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. All statements, other than statements of historical fact, including statements regarding industry prospects and future results of operations or financial position, made in this Quarterly Report are forward looking. We use words such as "anticipates," "believes," "expects," "future" and "intends" and similar expressions to identify forward-looking statements. Forward-looking statements reflect management's current expectations, plans or projections and are inherently uncertain. Actual results could differ materially from management's expectations, plans or projections. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date of this report. Certain risks and uncertainties that could cause our actual results to differ significantly from management's expectations are described in the section entitled "Risk Factors Affecting Business and Results of Operations." This section, along with other sections of this Quarterly Report, describes some, but not all, of the factors that could cause actual results to differ significantly from management's expectations. We do not intend to revise these forward-looking statements to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events. Readers are urged to review the factors in reports that we file from time to time with the Securities and Exchange Commission.

Overview

We are a leading manufacturer of technologically advanced electronic interconnect solutions for use in sophisticated electronic equipment. Our principal products are complex multilayer printed circuit boards, which are the platforms used to interconnect microprocessors, integrated circuits and other components that are essential to the operation of electronic products and systems.

On December 9, 2004, we purchased all of the outstanding capital stock of Merix San Jose. Located in San Jose, California, Merix San Jose is a quick-turn manufacturer of complex, multilayer printed circuit boards. The results of Merix San Jose have been included in the consolidated financial statements since the date of acquisition.

On September 29, 2005, we acquired the business operations of Eastern Pacific Circuits Holding Limited (EPC), a Hong Kong based supplier of printed circuit boards, for a total purchase price of \$115.0 million, subject to adjustment based on changes in working capital and subject to an additional earn-out payment of up to \$13.0 million if the business meets certain adjusted EBITDA targets in calendar 2005. We purchased EPC to create a platform in Asia to further support our existing customer base, introduce our technology to new customers in the region, and reduce our overall cost structure. The operations of EPC will be included in our consolidated results beginning September 29, 2005.

Results of Operations

Net Sales

Net sales were \$51.8 million in the first quarter of fiscal 2006, an increase of 23% over net sales of \$42.1 million in the first quarter of fiscal 2005. This increase includes \$7.5 million revenue generated by Merix San Jose in the first quarter of fiscal 2006. Unit shipments were approximately 34% higher in the first quarter of fiscal 2006 compared to the same period in the prior year. The increase in unit shipments is due to the addition of new customers, increased business from existing customers and the acquisition of Merix San Jose. Average pricing decreased by approximately 8% in the first quarter of fiscal 2006 compared to the first quarter of fiscal 2005. The decrease in average pricing in the first quarter of fiscal 2006 compared to fiscal 2005 was primarily due to pricing pressures within the industry. However, there was an increase in quick-turn prototype services revenue as a percent of net sales. Net sales of quick-turn and premium services (products that typically command a higher average sales price than standard volume orders as a result of rapid prototype manufacturing or compressed lead-time volume orders), comprised approximately 34% of net sales in the first quarter of fiscal 2006 compared to approximately 27% in the first quarter of fiscal 2005. While net sales of quick-turn and premium services consisted of compressed lead-time volume orders in the first quarter of fiscal 2005, net sales of quick-turn and premium services in the first quarter of fiscal 2006 consisted of a relatively higher mix of quick-turn prototype orders. The increase in the level of quick-turn prototype orders is primarily the result of our focus to grow this business and the acquisition of Merix San Jose.

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Sales attributed to our five largest original equipment manufacturer (“OEM”) customers comprised 55% and 64% of our net sales in the first quarter of fiscal 2006 and 2005, respectively. Two OEM customers each accounted for more than 10% of our net sales in the first quarters of fiscal 2006 and 2005. Although the acquisition of EPC will further diversify our customer base, we expect to continue to depend upon a small number of customers for a significant portion of our net sales for the foreseeable future. The loss of or decrease in orders from one or more major customers could materially reduce our sales.

Sales attributed to OEMs include sales made through the OEM’s electronic manufacturing service providers. The percentage of our net sales made through electronic manufacturing service providers was approximately 61% and 67% in the first quarters of fiscal 2006 and 2005, respectively. We expect sales to OEMs through their electronic manufacturing service providers to continue to represent a significant portion of our net sales. Although our contractual relationship is with the electronic manufacturing service provider, most of our shipments to electronic manufacturing service providers are directed by OEMs who negotiate product pricing and volumes directly with us. In addition, we are on the approved vendor list of several electronic manufacturing service providers and are awarded discretionary orders directly from some of them.

The following table shows, for the periods indicated, the percentage of our net sales to the principal end markets we serve (\$ in thousands):

End Markets	Three Months Ended			
	August 27, 2005		August 28, 2004	
Communications	73 %	\$37,856	82 %	\$34,522
High-end Computing & Storage	6 %	3,290	6 %	2,569
Test and Measurement	5 %	2,505	7 %	2,750
Aviation and Aerospace	4 %	1,872	1 %	577
EMSI & Other	12 %	6,264	4 %	1,712
Total	100%	\$51,787	100%	\$42,130

Sales in the communications end market, as a percentage of total sales, declined due to the diversification of our end markets resulting from the Merix San Jose acquisition. Although the communications end market continues to be targeted as an area for growth and we continue to add new customers in this end market, we expect that Merix San Jose and the EPC acquisition will result in further diversification, resulting in lower concentrations in the communications end market.

At the request of a number of significant customers, we have implemented vendor managed inventory programs. We expect to receive similar requests from additional customers in the future. In these programs, we produce and ship products to the customer, but retain ownership until the customer elects to take delivery. The customer commits to accept delivery within a specified period of time, typically 8 to 13 weeks, but is not committed to take delivery at any particular time. We record a sale only when the customer accepts delivery. These programs have reduced our ability to accurately forecast sales on a period to period basis and have also had a negative impact on our compressed lead time volume sales. Additionally, the programs have increased our levels of finished goods inventory.

Future demand and product pricing depend on many factors including capacity utilization in the industry, product mix, competitive pressure in the printed circuit board industry, levels of advanced technology, and economic conditions affecting the markets we serve and the electronics industry in general.

Gross Margin

Gross margin as a percentage of net sales was 15% in the first quarter of fiscal 2006 compared to 10% in the first quarter of fiscal 2005. The increase in gross margin primarily reflects the higher margin

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sales mix and more efficient asset utilization of Merix San Jose, partially offset by lower average pricing discussed above. Overall improvements in asset utilization since the prior year quarter and cost reduction activities in the first quarter of fiscal 2006 have also contributed to higher gross margins. Lower capacity utilization in the first quarter of fiscal 2005 reduced gross margin because it resulted in a higher cost per unit produced. However, capacity expansions that increased our cost structure and caused a decline in the overall utilization of our installed capacity in fiscal 2005 have facilitated our increase in unit production in fiscal 2006.

Engineering

Engineering expenses were \$1.5 million, or 3% of net sales, in the first quarter of fiscal 2006 compared to \$1.8 million, or 4% of net sales, in the first quarter of fiscal 2005. The decrease in engineering expense in fiscal 2006 primarily resulted from a reduction in average headcount from the prior year.

Selling, General and Administrative

Selling, general and administrative expenses were \$4.9 million, or 9% of net sales in the first quarter of fiscal 2006 and \$4.5 million, or 11% of net sales, in the first quarter of fiscal 2005. The increase in the amount of expense is largely attributed to the addition of \$1.3 million of expense from Merix San Jose. The company has also increased commission expenses due to the increasing use of manufacturing representative firms; however, these increases in expenses were partially offset by a reduction in average headcount. In addition, the first quarter of fiscal 2005 included expenses of \$768 thousand related to the abandonment of a business opportunity in Asia.

Severance and Impairment Charges

During the first quarter of fiscal 2006, we executed cost reduction actions that included a reduction in headcount across our manufacturing and support organizations and the impairment of certain assets. The reduction in headcount was approximately 130 positions, predominantly in Oregon, and we recorded a charge of \$658 thousand related to severance costs. In addition we recorded \$477 thousand for the impairment of certain assets.

Interest and Other Income (Expense), net

Interest and other income (expense), was a net income of \$97 thousand in the first quarter of fiscal 2006 and a net expense of \$(38) thousand in the first quarter of fiscal 2005. Interest income increased in the first quarter of fiscal 2006 compared to the same period in the prior year due to increased yields on cash and cash equivalents and short-term investments. As a result of the EPC acquisition finalized September 29, 2005, interest expense is expected to increase by approximately \$800 thousand and interest income is expected to decrease by approximately \$300 thousand in the next fiscal quarter.

Income Taxes

Our effective income tax rate was approximately zero for the first quarter of fiscal 2006 and fiscal 2005 due to adjustments to a valuation allowance against deferred tax assets that was established primarily as a result of an accumulation of net operating loss carryforwards. We incurred additional net operating tax losses in the first quarters of fiscal 2006 and fiscal 2005 and, accordingly, we increased our gross deferred tax asset and the corresponding valuation allowance, which resulted in no income tax benefit for these periods. The provision for income taxes for the first quarters of fiscal 2005 and 2006 represents our minimum foreign and state income tax obligations.

The Internal Revenue Code limits the amount of otherwise taxable income that may be offset by net operating loss carryforwards if certain changes in stock ownership occur, including certain changes in ownership of stock by passive institutional investors. If those changes in ownership of our stock have occurred or occur in the future, we may be limited in the amount of net operating loss carryforwards that we can use in any given year to reduce our income subject to tax.

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Liquidity and Capital Resources

At the end of the first quarter of fiscal 2006, we had \$34.0 million in cash and cash equivalents and \$44.6 million in short term investments. The principal source of liquidity in the first quarter of fiscal 2006 was the sale and maturity of short term investments and cash provided by operating activities. In the first quarter of fiscal 2006, we used cash principally to finance capital expenditures. In addition, cash was used to fund the increase in net working capital.

Cash provided by operating activities for the first quarter of fiscal 2006 was \$2.4 million, compared to cash used in operating activities of \$1.1 million in fiscal 2005. Our operating cash flow of \$2.4 million for the first quarter of fiscal 2006 primarily reflects a net loss of \$545 thousand, adjusted for \$4.5 million of depreciation and amortization, offset by a net increase in working capital accounts of \$2.1 million, excluding cash and cash equivalents and short-term investments. The increase in net working capital, excluding cash and cash equivalents and short-term investments, is primarily the result of increases in inventory and other assets and a decrease in accrued compensation partially offset by reductions in accounts receivable and an increase in accounts payable. The increase in these accounts was primarily caused by increased sales and production activity from fiscal 2005 to fiscal 2006.

Cash provided by investing activities in the first quarter of fiscal 2006 was \$22.5 million compared to cash used in investing activities of \$49 thousand in the first quarter of fiscal 2005. Cash provided by investing activities in the first quarter of fiscal 2006 primarily consisted of \$24.0 million from the sale of short-term investments net of purchases in anticipation of cash required for the EPC Acquisition.

Cash used in financing activities in the first quarter of fiscal 2006 was \$6 thousand compared to cash provided by financing activities of \$187 thousand in the first quarter of the prior fiscal year. Net cash flow from financing activities in the first quarter of fiscal 2006 consisted of the repurchase of company common stock related to employee stock option programs, whereas fiscal 2005 consisted of proceeds from the exercise of employee stock options.

Acquisition

We financed the acquisition of EPC with a combination of approximately \$32.8 million of available cash, term loans and revolving credit borrowings of approximately \$71.2 million under two new credit facilities and the issuance of an \$11.0 million subordinated promissory note to EPC.

Domestic Loan and Security Agreement

On September 28, 2005, we entered into a Loan and Security Agreement (the "Loan Agreement"). Under the Loan Agreement, the lenders provided a term loan of \$16.5 million and a revolving line of credit of up to \$38.5 million based on a borrowing base consisting primarily of our accounts receivable. Unless earlier terminated in accordance with the Loan Agreement, the maturity date of the Loan Agreement is September 28, 2010, with the principal of the term loan to be repaid in 19 equal quarterly payments of \$687,500 each and a final payment on the maturity date of \$3,437,500. In addition certain prepayments are required upon the sale or other disposition of certain assets. All revolving loans must be repaid in full on the maturity date. The initial loan proceeds were used to fund the acquisition of the business of EPC, and thereafter proceeds are to be used for general operating, working capital and other corporate purposes. The obligations under the Loan Agreement are secured by substantially all of the domestic assets of the Credit Parties. The loans bear interest at (a) either the prime rate or LIBOR for a borrowing period of one, two, three or six months, in each instance, as selected by us, plus (b) an additional margin (which is 50 basis points higher for the term loan than for the revolving loan) based on our available cash and cash equivalents. The Loan Agreement contains a number of restrictive covenants typical for such financings, including restrictions on our ability to incur additional indebtedness, grant additional liens, pay dividends or make other distributions.

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Under the Loan Agreement it is an event of default if any Credit Party fails to make a payment required of it under the Loan Agreement or otherwise fails to fulfill the covenants applicable to it. In addition, the failure of the Company to have repaid its indebtedness under its \$25.0 million, 6.5% convertible debenture before March 1, 2007 is an event of default unless (a) the holders of the debenture have agreed to extend the maturity date thereof to at least December 28, 2010 or (b) the Company at all times after February 28, 2007 maintains at least \$45.0 million of excess cash and cash equivalents. In the case of an event of default that is unremedied within the allowable grace period (if any), the lenders may terminate their loan commitments and require immediate repayment of all outstanding loans

Asian Credit Agreement

On September 29, 2005, Merix Caymans Trading Company Limited (“Merix Trading”), a wholly-owned indirect subsidiary of us, as the borrower, and its following affiliates as guarantors: its direct parent company, Merix Caymans Holding Company Limited (“Merix Caymans Holding”) and its following subsidiaries, Merix Singapore Sales Pte. Ltd., Merix Manufacturing (Hong Kong) Limited and Merix UK Limited, entered into a Credit Agreement (the “Credit Agreement”). Under the Credit Agreement, the lenders provided an initial term loan of \$21.3 million, a commitment for a second term loan of \$3.7 million and a revolving line of credit of \$5.0 million. Unless earlier terminated in accordance with the Credit Agreement, the maturity date of the Credit Agreement is March 15, 2009, with the principal of the term loans to be repaid in equal payments of \$7.5 million on each of December 1, 2006, 2007 and 2008 and the balance payable, along with the outstanding balance of the revolving loan, on March 15, 2009. In addition certain prepayments are required upon sale or other disposition of certain assets and upon the generation by Merix Caymans Holding and its subsidiaries of excess cash flow. The initial loan proceeds were used to fund the acquisition of the business of EPC, and thereafter proceeds are to be used for general operating, working capital and other corporate purposes. The obligations under the Credit Agreement are secured by substantially all the assets of Merix Caymans Holding and its subsidiaries (other than the assets of its four subsidiary companies located in the People’s Republic of China). The loans bear interest at (a) LIBOR for a borrowing period of one, two, three or six months, in each instance, as selected by the Company, plus (b) an additional margin of 250 basis points for the first year and thereafter an additional margin determined by a pricing grid based on the ratio of total borrowings to EBITDA for Merix Caymans Holding and its subsidiaries.

In addition to the loans advanced under the Credit Agreement, Eastern Pacific Circuits Investments (Singapore) Pte Ltd, a company acquired by Merix Trading in the EPC acquisition transaction, remains obligated under an existing term loan to the lenders in the amount of \$3.7 million, which obligations are guaranteed by Merix Caymans Holding and its subsidiaries party to the Credit Agreement and secured by the collateral provided under the Credit Agreement and its related loan documentation. This existing loan is intended to be refinanced by the proceeds of the second term loan available under the Credit Agreement. The Credit Agreement contains a number of restrictive covenants typical for such financings, including restrictions on the ability of Merix Caymans Holding and its subsidiaries to incur additional indebtedness, grant additional liens, pay dividends or make other distributions. Under the Credit Agreement it is an event of default if Merix Caymans Holding or any of its subsidiaries party to the Credit Agreement fails to make a payment required of it under the Credit Agreement or otherwise fails to fulfill the covenants applicable to it. In the case of an event of default that is unremedied within the allowable grace period (if any), the lenders may terminate their loan commitments and require immediate repayment of all outstanding loans.

Promissory Note

On September 29, 2005, Merix Trading delivered its subordinated Promissory Note to Eastern Pacific Circuits Holdings Limited for a total of (a) \$11.0 million plus (b) the amount of the earnout consideration determined under the previously announced Master Sale and Purchase Agreement. The principal is to be paid in four equal installments on March 1, 2007, December 1, 2007, December 1, 2008 and March 15, 2009. The outstanding principal balance earns interest at 7% per annum through December 1, 2006, 8% per annum thereafter through December 1, 2007 and 9% per annum thereafter. Accrued and unpaid interest is payable quarterly, provided that the portion of interest accruing at a rate in excess of the prevailing rate of interest charged Merix Trading under its senior, secured credit facility shall only be paid upon maturity. Merix Trading may offset its payment obligations under the Note by the amount of warranty claims arising under the Master Sale and Purchase Agreement. The holder of the Note has a limited right to

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accelerate payment upon Merix Trading' s failure to make payments due under the Note, Merix Trading, Merix Caymans Holding Company Limited or their subsidiaries raising debt and/or equity financing proceeds in excess of \$50.0 million or certain insolvency or bankruptcy events. The Note is unsecured and subordinated to Merix Trading' s obligations to its senior secured lender.

We believe that our existing capital resources, cash generated from operations and cash obtained through debt financing should be sufficient to meet our working capital and contractual obligations requirements through at least the next twelve months.

Risk Factors Affecting Business and Results of Operations

Certain statements in this report contain forward-looking information (as defined in Section 27A of the Securities Act of 1933, as amended) that involves risks and uncertainties. Words such as “anticipates,” “believes,” “expects,” “future” and “intends” and similar expressions identify forward-looking statements. These statements relate to future events or our future financial performance. These statements constitute forward-looking statements and are only predictions. Actual events or results may differ materially. The differences could be caused by a number of factors or combination of factors, including the factors listed below and the risks detailed in our Securities and Exchange Commission filings, including our Annual Report on Form 10-K for the fiscal year ended May 28, 2005.

Forward-looking statements contained in this report relate to our plans and expectations as to future financial results, end-market demand, our customer base, the need for, use of and availability of capital resources and cash, and the effects of changes in interest rates and foreign currency exchange rates.

Many factors, including the following, could cause actual results to differ materially from the forward-looking statements: the ability to realize the anticipated benefits and synergies of the EPC acquisition in a timely manner or at all; fluctuations in demand for products and services of the combined company, including quick-turn and premium services; the introduction of new products or technologies by competitors; the ability to successfully and timely integrate the operations of EPC with Merix; the ability to achieve expected operating and financial results and avoid unanticipated costs; pricing and other competitive pressures in the industry from domestic and global competitors; foreign currency risk; risks inherent in foreign operations, such as increased regulatory complexity and compliance costs and greater political and economic instability; our ability to fully utilize our assets and control costs; our ability to control or pass through the cost of raw materials and supplies; our ability to retain or attract employees with sufficient know-how to conduct our manufacturing processes and maintain or increase our production output and quality. These factors or additional risks and uncertainties not known to us or that we currently deem immaterial may impair business operations and may cause our actual results to differ materially from any forward-looking statement.

Although we believe the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. We do not intend to update any of the forward-looking statements after the date of this report to conform them to actual results or to make changes in our expectations.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

Prior to the September 27, 2005 acquisition of EPC, our exposure to market risk for changes in interest rates related primarily to the increase or decrease in the amount of interest income we can earn on our funds available for investment. We ensure the safety and preservation of our invested principal by limiting default risk, market risk and reinvestment risk. We mitigate default risk by investing in high-credit quality securities.

In addition, concurrent with the EPC acquisition, we entered into variable rate debt, which exposes us to market risk from changes in interest rates on our variable rate debt. Our Loan Agreement dated September 28, 2005, consists of a term loan of \$16.5 million and a revolving line of credit of up to \$38.5 million. Our Credit Agreement dated September 27, 2005, provides an initial term loan of \$21.3 million, a commitment for a second term loan of \$3.7 million and a revolving line of credit of \$5.0 million. These loans bear interest that is variable based on changes in either the prime rate or LIBOR. The impact on our results of operations for the next twelve months of a one-point rate change on the balance outstanding of our variable rate debt of approximately \$71.2 million subsequent to the EPC acquisition would be approximately \$712 thousand. We may enter into interest rate swap agreements to limit this risk.

We do not have interest rate risk in our convertible debenture and notes payable. A change in interest rates would not affect interest expense on the \$25.0 million, 6.5% convertible debenture, the \$2.0 million, 5% promissory note issued in connection with the acquisition of Merix San Jose or the \$11.0 million promissory note issued in connection with the EPC acquisition because these instruments bear fixed rates of interest.

Concurrent with the EPC acquisition, we are subject to risk from fluctuations in foreign currency exchange rates related to our Asian subsidiaries. Some revenue and expense transactions in our Asian subsidiaries are denominated in foreign currencies. Gains and losses, which result from foreign currency transactions, will be included in the Consolidated Statements of Income.

This market risk discussion contains forward-looking statements. We do not believe that changes in interest rates will have a material effect on our liquidity, financial condition or results of operations. Actual results may differ materially from this discussion based upon general market conditions and changes in financial markets.

ITEM 4. CONTROLS AND PROCEDURES

The term “disclosure controls and procedures” (defined in SEC Rule 13a-15(e)) refers to the controls and other procedures of a company that are designed to ensure that the information required to be disclosed by a company in the reports that it files under the Exchange Act is recorded, processed, summarized and reported within the required time periods. An evaluation was performed under the supervision and with the participation of our management, including our Chief Executive Officer (CEO) and Chief Financial Officer (CFO), of the effectiveness of the design and operation of our disclosure controls and procedures as of August 27, 2005. Based on that evaluation, our CEO and CFO concluded that our disclosure controls and procedures were effective.

There has been no change in Merix’ internal control over financial reporting during the fiscal quarter ended August 27, 2005 that has materially affected, or is reasonably likely to materially affect, Merix’ internal control over financial reporting.

Our CEO and CFO do not expect that our disclosure controls will prevent all error and all fraud. Although our disclosure controls were designed to provide reasonable assurance of achieving their objectives, a control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within Merix have been detected.

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These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the control. The design of any system of controls also is based partly on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

As previously reported in our periodic reports filed with the Securities and Exchange Commission, four proposed class action complaints were filed against us and certain of our executive officers and directors in the first quarter of fiscal 2005. The complaints were consolidated in the second quarter of fiscal 2005. On March 3, 2005, we filed a motion to dismiss the amended and consolidated complaint for failure to identify with sufficient specificity the statements that plaintiffs allege to have been false and why the statements were either false when made or material. On September 15, 2005, the court granted that motion without prejudice and gave plaintiffs leave to amend their complaint.

As previously reported in our periodic reports filed with the Securities and Exchange Commission, in the first quarter of fiscal 2005, two derivative lawsuits were filed against certain of our directors and officers based on the same allegations made in the class action lawsuit. Merix is named as a nominal defendant in these derivative lawsuits, which have now been consolidated. On August 31, 2005, the federal court hearing the class action lawsuit described above granted a motion to stay discovery in this state-court derivative action. On September 13, 2005, the state court stayed all proceedings in the derivative lawsuit pending further developments in the federal class action lawsuit, including all proceedings on a motion that defendants filed on July 7, 2005 to dismiss the consolidated shareholder derivative complaint.

ITEM 2. CHANGES IN SECURITIES, USE OF PROCEEDS AND ISSUER PURCHASES OF EQUITY SECURITIES

Period	Total Number Of Shares Purchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs
May 29-June 25, 2005	–	\$ –	–	–
June 26-July 23, 2005	925	\$ 6.50	925	–
July 24-August 27, 2005	–	\$ –	–	–
Total	925	\$ 6.50	925	

The issuer purchases during the period covered by this report represent shares purchased by us in satisfaction of withholding taxes due upon the vesting of restricted shares granted to our employees under our equity-based compensation plans. The shares are purchased from employees and the proceeds are remitted to pay the withholding taxes due upon vesting of their restricted stock awards.

ITEM 5. OTHER INFORMATION

Entry Into Material Definitive Agreements

The following events occurred subsequent to the quarterly period covered by this Form 10-Q, and are reportable under Item 1.01 of Form 8-K.

Appointment of New Executive Officer

On September 21, 2005, we entered into an Executive Severance and Noncompetition Agreement and an Indemnity Agreement, each dated as of September 21, 2005, with Stephen Going, our new Vice President and General Counsel.

Under the Executive Severance Agreement, Mr. Going is eligible to receive a cash payment equal to one year of his annual base salary and certain other severance benefits upon his termination of employment with Merix for a reason other than cause, death or disability. Mr. Going is entitled to additional benefits upon a termination of his employment following a change of control of Merix. The agreement also includes noncompetition, nonsolicitation and confidentiality covenants by Mr. Going in favor of Merix. A copy of this agreement is filed as an exhibit to this report on Form 10-Q.

Under the Indemnity Agreement, Merix agrees to indemnify Mr. Going for any liability he may incur by reason of his serving as an executive officer of Merix, including liability under the Securities Act of 1933, as amended. A copy of this agreement is filed as an exhibit to this report on Form 10-Q.

On September 21, 2005, we also entered into a compensation arrangement with Mr. Going pursuant to which he will receive an annual salary of \$180,000 and will be eligible to receive a bonus in an amount equal to 40% of his base salary pursuant to our Executive Incentive Plan. Upon commencement of his employment, Mr. Going received an option to purchase up to 40,000 shares of our common stock under our 1994 Stock Incentive Plan and is eligible to receive future annual equity grants.

Director Compensation

On October 6, 2005, our Board of Directors approved a fee payment of \$60,000 cash to each of Donald D. Jobe and George H. Kerckhove, directors of Merix, for their services on the Ad Hoc China Acquisition Committee. The aggregate fee amount is payable in four equal installments, one in respect of each quarter of fiscal year 2006.

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ITEM 6. EXHIBITS

See the Exhibit Index for the exhibits filed as part of this report.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized this 11th day of October, 2005.

MERIX CORPORATION

By: /s/ Janie S. Brown

Janie S. Brown

Sr. Vice President, Chief Financial Officer,

Treasurer and Secretary

(Principal Financial Officer)

EXHIBIT INDEX

Exhibit Number	Document Description
3.1	Articles of Incorporation of the Company, as amended, incorporated by reference to the Company' s Annual Report on Form 10-K for the fiscal year ended May 26, 2001.
3.2	Bylaws of the Company, as amended.
10.1	Supplemental Agreement dated September 29, 2005, relating to the Master Sale and Purchase Agreement dated as of April 14, 2005.
10.2	Loan and Security Agreement dated September 28, 2005.
10.3	Credit Agreement dated September 29, 2005.
10.4	Promissory Note dated September 29, 2005.
10.5	Executive Severance and Noncompetition Agreement between the Company and Stephen Going dated September 21, 2005.
10.6	Indemnity Agreement between the Company and Stephen Going dated September 21, 2005.
10.7	Executive Severance Agreement between the Company and Thomas R. Ingham dated August 22, 2005 (incorporated by reference to the Company' s current report on Form 8-K filed on August 30, 2005).
10.8	Indemnity Agreement between the Company and Thomas R. Ingham dated August 22, 2005 (incorporated by reference to the Company' s current report on Form 8-K filed on August 30, 2005).
10.9	Employee Stock Bonus Agreement
10.10	Summary of Executive Compensation
31.1	Rule 13a-14(a) Certification of Chief Executive Officer.
31.2	Rule 13a-14(a) Certification of Chief Financial Officer.
32.1	Section 1350 Certification of Chief Executive Officer.
32.2	Section 1350 Certification of Chief Financial Officer.

BYLAWS, AS AMENDED

OF

MERIX CORPORATION

ARTICLE I

SHAREHOLDERS MEETINGS AND VOTING

1.1 Annual Meeting. The annual meeting of the shareholders shall be held on the fourth Friday in September of each year at 9:00 a.m., unless a different date or time is fixed by the Board of Directors and stated in the notice of the meeting. Failure to hold an annual meeting on the stated date shall not affect the validity of any corporate action.

1.2 Special Meetings. Special meetings of the shareholders, for any purposes, unless otherwise prescribed by statute, may be called by the Chair of the Board or the Board of Directors and shall be called by the Chair of the Board upon the written demand of the holders of not less than one-tenth of all the votes entitled to be cast on any issue proposed to be considered at the meeting. The demand shall describe the purposes for which the meeting is to be held and shall be signed, dated and delivered to the Secretary.

1.3 Place of Meetings. Meetings of the shareholders shall be held at any place in or out of Oregon designated by the Board of Directors. If a meeting place is not designated by the Board of Directors, the meeting shall be held at the Corporation's principal office.

1.4 Notice of Meetings. Written or printed notice stating the date, time and place of the shareholders meeting and, in the case of a special meeting or a meeting for which special notice is required by law, the purposes for which the meeting is called, shall be delivered by the Corporation to each shareholder entitled to vote at the meeting and, if required by law, to any other shareholders entitled to receive notice, not earlier than 60 days nor less than 30 days before the meeting date. If mailed, the notice shall be deemed delivered when it is mailed to the shareholder with postage prepaid at the shareholder's address shown in the Corporation's record of shareholders. Any previously scheduled meeting of the shareholders may be postponed and any special meeting of the shareholders may be canceled by resolution of the Board of Directors upon public announcement given prior to the date previously scheduled for such meeting of shareholders.

1.5 Waiver of Notice. A shareholder may at any time waive any notice required by law, these Bylaws or the Articles of Incorporation. The waiver shall be in writing, be signed by the shareholder entitled to the notice and be delivered to the Corporation for inclusion in the minutes for filing with the corporate records. A shareholder's attendance at a meeting waives objection to (i) lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting, and (ii) consideration of a particular matter at the

meeting that is not within the purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

1.6 Fixing of Record Date. The Board of Directors may fix a future date as the record date to determine the shareholders entitled to notice of a shareholders meeting, demand a special meeting, vote, take any other action or receive payment of any share or cash dividend or other distribution. This date shall not be earlier than 70 days or, in the case of a meeting, later than 35 days before the meeting or action requiring a determination of shareholders. The record date for any meeting, vote or other action of the shareholders shall be the same for all voting groups. If not otherwise fixed by the Board of Directors, the record date to determine shareholders entitled to notice of and to vote at an annual or special shareholders meeting is the close of business on the day before the notice is first mailed or otherwise transmitted to shareholders. If not otherwise fixed by the Board of Directors, the record date to determine shareholders entitled to receive payment of any share or cash dividend or other distribution is the close of business on the day the Board of Directors authorizes the share or cash dividend or other distribution.

1.7 Shareholders List for Meeting. After a record date for a meeting is fixed, the Corporation shall prepare an alphabetical list of all shareholders entitled to notice of the shareholders meeting. The list shall be arranged by voting group and, within each voting group, by class or series of shares, and it shall show the address of and number of shares held by each shareholder. The shareholders list shall be available for inspection by any shareholder, upon proper demand as may be required by law, beginning two business days after notice of the meeting is given and continuing through the meeting, at the Corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. The Corporation shall make the shareholders list available at the meeting, and any shareholder or the shareholder's agent or attorney shall be entitled to inspect the list at any time during the meeting or any adjournment. Refusal or failure to prepare or make available the shareholders list does not affect the validity of action taken at the meeting.

1.8 Quorum; Adjournment.

(1) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. A majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(2) The chair of the meeting or a majority of votes represented at the meeting, whether or not there is a quorum, may adjourn the meeting from time to time to a different time and place without further notice to any shareholder of any adjournment, except that notice is required if a new record date is or must be set for the adjourned meeting. At an adjourned meeting at which a quorum is present, any business may be transacted that might have been transacted at the meeting originally held.

(3) Once a share is represented for any purpose at a meeting, it shall be present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set

for the adjourned meeting. A new record date must be set if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

1.9 Voting Requirements; Action Without Meeting.

(1) If a quorum exists, action on a matter, other than the election of directors, by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless a greater number of affirmative votes is required by law or the Articles of Incorporation. Unless otherwise provided in the Articles of Incorporation, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

(2) Action required or permitted by law to be taken at a shareholders meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on the action. The action must be evidenced by one or more written consents describing the action taken, signed by all the shareholders entitled to vote on the action and delivered to the Secretary for inclusion in the minutes for filing with the corporate records. Shareholder action taken by written consent is effective when the last shareholder signs the consent, unless the consent specifies an earlier or later effective date.

1.10 Proxies. A shareholder may vote shares in person or by proxy. A shareholder may appoint a proxy by signing an appointment form either personally or by the shareholder's attorney-in-fact. An appointment of a proxy is effective when received by the Secretary or other officer of the Corporation authorized to tabulate votes. An appointment is valid for 11 months unless a different period is provided in the appointment form. An appointment is revocable by the shareholder unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest that has not been extinguished.

1.11 Meeting by Telephone Conference. Shareholders may participate in an annual or special meeting by, or conduct the meeting through, use of any means of communications by which all shareholders participating may simultaneously hear each other during the meeting, except that no meeting for which a written notice is sent to shareholders may be conducted by this means unless the notice states that participation in this manner is permitted and describes how any shareholder desiring to participate in this manner may notify the Corporation. Participation in a meeting by this means shall constitute presence in person at the meeting.

1.12 Proper Business for Shareholders' Meeting. To be properly brought before the meeting, business must be either (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (ii) otherwise properly brought before a meeting by or at the direction of the Board of Directors, or (iii) otherwise properly brought before the meeting by a shareholder. In addition to any other applicable requirements, for business to be properly brought before an annual meeting by a shareholder, the shareholder must have given timely notice thereof in writing to the

Secretary of the Corporation. To be timely, a shareholder's notice must be delivered to or mailed and received at the principal executive office of the Corporation not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the shareholder to be timely must be so received not later than the close of business on the 90th day prior to such annual meeting and not later than the close of business on the later of the 60th day prior to such annual meeting or the 10th day following the day on which public announcement of the date of such meeting is first made. In no event shall the public announcement of an adjournment of an annual meeting commence a new time period for the giving of a shareholders notice as described above. A shareholder's notice to the Secretary shall set forth (i) one or more matters appropriate for shareholder action that the shareholder proposes to bring before the meeting, (ii) a brief description of the matters desired to be brought before the meeting and the reasons for conducting such business at the meeting, (iii) the name and record address of the shareholder, (iv) the class and number of shares of the Corporation that the shareholder owns or is entitled to vote and (v) any material interest of the shareholder in such matters. Notwithstanding anything in these bylaws to the contrary, no business shall be conducted at the annual meeting except in accordance with the procedure set forth in this Section 1.12; provided, however, that nothing in this Section 1.12 shall be deemed to preclude discussion by any shareholder of any business properly brought before the annual meeting. The Chair of the Board, or the President in the absence of the Chair of the Board, shall, if the facts warrant, determine and declare to the meeting that the business was not properly brought before the meeting in accordance with the provisions of this Section 1.12 and if the Chair of the Board, or the President in the absence of the Chair of the Board, should so determine, shall so declare to the meeting any such business not properly brought before the meeting shall not be transacted.

1.13 Shareholder Nomination of Directors.

(1) Not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year's annual meeting of shareholders, any shareholder who intends to make a nomination at the annual meeting shall deliver a notice to the Secretary of the Corporation setting forth (i) as to each nominee whom the shareholder proposes to nominate for election or reelection as a director, (a) the name, age, business address and residence address of the nominee, (b) the principal occupation or employment of the nominee, (c) the class and number of shares of capital stock of the Corporation that are beneficially owned by the nominee of shares of capital stock of the Corporation that are beneficially owned by the nominee and (d) any other information concerning the nominee that would be required, under the rules of the Securities and Exchange Commission, in a proxy statement soliciting proxies for the election of such nominee; and (ii) as to the shareholder giving the notice, (a) the name and record address of the shareholder and (b) the class and number of shares of capital stock of the Corporation that are beneficially owned by the shareholder; provided, however, that in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the shareholder to be timely must be so delivered

not later than the close of business on the 90th day prior to such annual meeting and not later than the close of business on the later of the 60th day prior to such annual meeting or the 10th day following the day on which public announcement of the date of such meeting is first made. Such notice shall include a signed consent to serve as a director of the Corporation, if elected, of each such nominee. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as a director of the Corporation.

(2) Any shareholder who intends to make a nomination at any special meeting of shareholders held for the purpose of electing directors shall deliver a timely notice to the Secretary of the Corporation setting forth (i) as to each nominee whom the shareholder proposes to nominate for election or reelection as a director, (a) the name, age, business address and residence address of the nominee, (b) the principal occupation or employment of the nominee, (c) the class and number of shares of capital stock of the corporation that are beneficially owned by the nominee of shares of capital stock of the corporation that are beneficially owned by the nominee and (d) any other information concerning the nominee that would be required, under the rules of the Securities and Exchange Commission, in a proxy statement soliciting proxies for the election of such nominee; and (ii) as to the shareholder giving the notice, (a) the name and record address of the shareholder and (b) the class and number of shares of capital stock of the Corporation that are beneficially owned by the shareholder. To be timely for these purposes, such notice must be given (i) if given by the shareholder (or any of the shareholders) who or that made a demand for a meeting pursuant to which such meeting is to be held, concurrently with the delivery of such demand, and (ii) otherwise, not later than the close of business on the 10th day following the date on which the public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. Such notice shall include a signed consent to serve as a director of the Corporation, if elected, of each such nominee. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as a director of the Corporation. In no event shall the public announcement of an adjournment of a special meeting commence a new time period for the giving of a shareholder's notice as described above.

(3) The Chair of the Board, or the President in the absence of the Chair of the Board, shall, if the facts warrant, determine and declare that a nominee was not properly nominated in accordance with the provisions of this Section 1.13 and if the Chair of the Board, or the President in the absence of the Chair of the Board, should so determine, shall so declare to the meeting any such nominee shall not be considered by shareholders.

(4) For purposes of Sections 1.4, 1.12 and 1.13, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14, or 15(d) of the Securities Exchange Act of 1934, as amended.

ARTICLE II

BOARD OF DIRECTORS

2.1 Duties of Board of Directors. All corporate powers of the Corporation shall be exercised by or under the authority of its Board of Directors; the business and affairs of the Corporation shall be managed under the direction of its Board of Directors.

2.2 Number, Term and Qualification. The number of directors of the Corporation shall be at least one and no more than ten. Within this range, the initial number shall be five, and the number of directors shall otherwise be determined from time to time by the Board of Directors. The term of a director shall expire at the next annual meeting of shareholders after his or her election. Despite the expiration of a director's term, the director shall continue to serve until the director's successor is elected and qualified or the number of directors is decreased. Directors need not be residents of the State of Oregon or shareholders of the Corporation.

2.3 Regular Meetings. A regular meeting of the Board of Directors shall be held without notice other than this Bylaw immediately after, and at the same place as, the annual meeting of shareholders. The Board of Directors may provide by resolution the time and place for the holding of additional regular meetings in or out of Oregon without notice other than the resolution.

2.4 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the Chief Executive Officer or any two directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place in or out of Oregon as the place for holding any special meeting of the Board of Directors called by them.

2.5 Notice. Notice of the date, time and place of any special meeting of the Board of Directors shall be given at least 24 hours prior to the meeting by notice communicated in person or by telephone, telegraph, teletype, facsimile transmission or other form of wire or wireless communication, mail or courier service sent to directors' business or home addresses. If written, notice shall be effective at the earliest of (a) when received, (b) three days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed, (c) on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested and the receipt is signed by or on behalf of the addressee, (d) if given by teletype or facsimile, upon transmission of the message or (e) if given by overnight mail or courier, one day after delivery to the overnight mail or courier service company. Notice by all other means shall be deemed effective when received by or on behalf of the director. Notice of any regular or special meeting need not describe the purposes of the meeting unless required by law or the Articles of Incorporation.

2.6 Waiver of Notice. A director may at any time waive any notice required by law, these Bylaws or the Articles of Incorporation. Except as set forth below, the waiver must be in writing, be signed by the director entitled to the notice, specify the meeting for which notice is waived and be filed with the minutes or corporate records. A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting, or promptly upon the director's arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

2.7 Quorum. A majority of the number of directors set forth in Section 2.2 of these Bylaws shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. If less than a quorum is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

2.8 Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless a different number is provided by law, the Articles of Incorporation or these Bylaws.

2.9 Meeting by Telephone Conference; Action Without Meeting.

(1) Directors may participate in a regular or special meeting by, or conduct the meeting through, use of any means of communications by which all directors participating may simultaneously hear each other during the meeting. Participation in a meeting by this means shall constitute presence in person at the meeting.

(2) Any action that is required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if one or more written consents describing the action taken are signed by all of the directors entitled to vote on the matter and included in the minutes or filed with the corporate records reflecting the action taken. The action shall be effective when the last director signs the consent, unless the consent specifies an earlier or later effective date.

2.10 Vacancies. Any vacancy on the Board of Directors, including a vacancy resulting from an increase in the number of directors, may be filled by the shareholders, the Board of Directors, the remaining directors if less than a quorum (by the vote of a majority thereof) or by a sole remaining director. Any vacancy not filled by the directors shall be filled by election at an annual meeting or at a special meeting of shareholders called for that purpose. A vacancy that will occur at a specified later date, by reason of a resignation or otherwise, may be filled before the vacancy occurs, but the new director may not take office until the vacancy occurs.

2.11 Compensation. By resolution of the Board of Directors, the directors may be paid reasonable compensation for services as directors and their expenses of attending meetings of the Board of Directors.

2.12 Presumption of Assent. A director who is present at a meeting of the Board of Directors or a committee of the Board of Directors shall be deemed to have assented to the action taken at the meeting unless (a) the director's dissent or abstention from the action is entered in the minutes of the meeting, (b) the director delivers a written notice of dissent or abstention to the action to the presiding officer of the meeting before any adjournment or to the Corporation immediately after the adjournment of the meeting or (c) the director objects at the beginning of the meeting or promptly upon the director's arrival to the holding of the meeting or transacting business at the meeting. The right to dissent or abstain is not available to a director who voted in favor of the action.

2.13 Removal. The shareholders may remove one or more directors with cause, only if such removal is approved by a vote of the holders of two-thirds of the votes entitled to be cast on the matter, at a meeting called expressly for that purpose.

2.14 Resignation. Any director may resign by delivering written notice to the Board of Directors, its chair or the Corporation. Unless the notice specifies a later effective date, a resignation notice shall be effective upon the earlier of (a) receipt, (b) five days after its deposit in the United States mails, if mailed postpaid and correctly addressed, or (c) on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by addressee. Once delivered, a resignation notice is irrevocable unless revocation is permitted by the Board of Directors.

ARTICLE III

COMMITTEES OF THE BOARD

3.1 Committees. The Board of Directors may create one or more committees and appoint members of the Board of Directors to serve on them. Each committee shall have two or more members. The creation of a committee and appointment of members to it must be approved by a majority of all directors in office when the action is taken. Subject to any limitation imposed by the Board of Directors or by law, each committee may exercise all the authority of the Board of Directors in the management of the Corporation. A committee may not take any action that a committee is prohibited from taking by the Oregon Business Corporation Act.

3.2 Changes of Size and Function. Subject to the provisions of law, the Board of Directors shall have the power at any time to change the number of committee members, fill committee vacancies, change any committee members and change the functions and terminate the existence of a committee.

3.3 Conduct of Meetings. Each committee shall conduct its meetings in accordance with the applicable provisions of these Bylaws relating to meetings and action without meetings of the Board of Directors. Each committee shall adopt any further rules regarding its conduct, keep minutes and other records and appoint subcommittees and assistants as it deems appropriate.

3.4 Compensation. By resolution of the Board of Directors, committee members may be paid reasonable compensation for services on committees and their expenses of attending committee meetings.

ARTICLE IV

OFFICERS

4.1 Appointment. The Board of Directors at its first meeting following its election each year shall appoint a Chair of the Board of Directors ("Chair of the Board"), a President and a Secretary. The Board of Directors or the Chair of the Board may appoint any other officers, assistant officers and agents. Any two or more offices may be held by the same person.

4.2 Compensation. The Corporation may pay its officers reasonable compensation for their services as fixed from time to time by the Board of Directors or by the Chair of the Board with respect to officers appointed by the Chair of the Board.

4.3 Term. The term of office of all officers commences upon their appointment and continues until their successors are appointed or until their resignation or removal.

4.4 Removal. Any officer or agent appointed by the Board of Directors or the Chair of the Board may be removed by the Board of Directors at any time with or without cause. Any officer or agent appointed by the Chair of the Board may be removed by the Chair of the Board at any time with or without cause.

4.5 Chair of the Board. The Chair of the Board shall be the chief executive officer of the Corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Corporation. The Chair of the Board may execute in behalf of the Corporation all contracts, agreements, stock certificates and other instruments. The Chair of the Board shall from time to time report to the Board of Directors all matters within the Chair of the Board's knowledge which should be brought to the attention of the Board of Directors. The Chair of the Board shall vote all shares of stock in other corporations owned by the Corporation, and shall be empowered to execute proxies, waivers of notice, consents and other instruments in the name of the Corporation with respect to such stock. The Chair of the Board shall preside at all meetings of the Board of Directors and shall perform any duties and responsibilities prescribed from time to time by the Board of Directors.

4.6 President. The President shall be the chief operating officer of the Corporation and shall supervise the operations of the Corporation, subject to the discretion of the Board of Directors and the Chair of the Board. The President shall have any other duties and responsibilities prescribed by the Board of Directors.

4.7 Vice Presidents. Each Vice President shall perform duties and responsibilities prescribed by the Board of Directors or the Chair of the Board. The Board of Directors or the Chair of the Board may confer a special title upon a Vice President.

4.8 Secretary.

(1) The Secretary shall record and keep the minutes of all meetings of the directors and shareholders in one or more books provided for that purpose and perform any duties prescribed by the Board of Directors or the Chair of the Board.

(2) Any assistant secretary shall have the duties prescribed from time to time by the Board of Directors, the Chair of the Board or the Secretary. In the absence or disability of the Secretary, the Secretary's duties shall be performed by an assistant secretary.

4.9 Chief Financial Officer. The Chief Financial Officer shall have charge and custody and be responsible for all funds and securities of the Corporation and shall have other duties as prescribed from time to time by the Board of Directors, the Chair of the Board or the President.

ARTICLE V

INDEMNIFICATION

The Corporation shall indemnify to the fullest extent not prohibited by law, any current or former director or officer of the Corporation who is made, or threatened to be made, a party to an action, suit or proceeding, whether civil, criminal, administrative, investigative or other (including an action, suit or proceeding by or in the right of the Corporation) by reason of the fact that such person is or was a director, officer, employee or agent of the Corporation or a fiduciary within the meaning of the Employee Retirement Income Security Act of 1974 with respect to any employee benefit plan of the Corporation, or serves or served at the request of the Corporation as a director, officer, employee or agent, or as a fiduciary of an employee benefit plan, of another corporation, partnership, joint venture, trust or other enterprise. The Corporation shall pay for or reimburse the reasonable expenses incurred by any such current or former director or officer in any such proceeding in advance of the final disposition of the proceeding if the person sets forth in writing (i) the person's good faith belief that the person is entitled to indemnification under this Article and (ii) the person's agreement to repay all advances if it is ultimately determined that the person is not entitled to indemnification. No amendment to these Bylaws that limits the Corporation's obligation to indemnify any person shall have any effect on such obligation for any act or omission that occurs prior to the later to occur of the effective date of the amendment or the date notice of the amendment is given to the person. This Article shall not be deemed exclusive of any other provisions for indemnification or advancement of expenses of directors, officers, employees, agents and fiduciaries that may be included in the Articles of Incorporation or any statute, agreement, general or specific action of the Board of Directors, vote of shareholders or other document or arrangement.

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ARTICLE VI

ISSUANCE OF SHARES

6.1 Adequacy of Consideration. Before the Corporation issues shares, the Board of Directors shall determine that the consideration received or to be received for the shares to be issued is adequate. The authorization by the Board of Directors of the issuance of shares for stated consideration shall evidence a determination by the Board that such consideration is adequate.

6.2 Certificates for Shares.

(1) Certificates representing shares of the Corporation shall be in any form determined by the Board of Directors consistent with the requirements of the Oregon Business Corporation Act and these Bylaws. The certificates shall be signed, either manually or in facsimile, by two officers of the Corporation, at least one of whom shall be the Chair of the Board, the President or a Vice President, and may be sealed with the seal of the Corporation, if any, or a facsimile thereof. All certificates for shares shall be consecutively numbered or otherwise identified. The signatures of officers upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent or any assistant transfer agent or registered by a registrar, other than the Corporation itself or an employee of the Corporation.

(2) Every certificate for shares of stock that are subject to any restriction on transfer or registration of transfer pursuant to the Articles of Incorporation, the Bylaws, securities laws, a shareholders agreement or any agreement to which the Corporation is a party shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of the restriction and that the Corporation retains a copy of the full text. Every certificate issued when the Corporation is authorized to issue more than one class or series within a class of shares shall set forth on its face or back either (a) a summary of the designations, relative rights, preferences and limitations of the shares of each class and the variations in rights, preferences and limitations for each series authorized to be issued and the authority of the Board of Directors to determine variations for future series or (b) a statement of the existence of those designations, relative rights, preferences and limitations and a statement that the Corporation will furnish a copy thereof to the holder of the certificate upon written request and without charge.

(3) All certificates surrendered to the Corporation for transfer shall be canceled. The Corporation shall not issue a new certificate for previously issued shares until the former certificate or certificates for those shares are surrendered and canceled; except that in case of a lost, destroyed or mutilated certificate, a new certificate may be issued on terms prescribed by the Board of Directors.

6.3 Transfer Agent and Registrar. The Board of Directors may from time to time appoint one or more transfer agents and one or more registrars for the shares of the Corporation, with powers and duties determined by the Board of Directors.

6.4 Officer Ceasing to Act. If the person who signed a share certificate, either manually or in facsimile, no longer holds office when the certificate is issued, the certificate is nevertheless valid.

ARTICLE VII

CONTRACTS, LOANS, CHECKS AND OTHER INSTRUMENTS

7.1 Contracts. Except as otherwise provided by law, the Board of Directors may authorize any officers or agents to execute and deliver any contract or other instrument in the name of and on behalf of the Corporation, and this authority may be general or confined to specific instances.

7.2 Loans. The Corporation shall not borrow money and no evidence of indebtedness shall be issued in its name unless authorized by the Board of Directors. This authority may be general or confined to specific instances.

7.3 Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money and notes or other evidences of indebtedness issued in the name of the Corporation shall be signed in the manner and by the officers or agents of the Corporation designated by the Board of Directors.

7.4 Deposits. All funds of the Corporation not otherwise employed shall be deposited to the credit of the Corporation in those banks, trust companies or other depositaries as the Board of Directors or officers of the Corporation designated by the Board of Directors select, or be invested as authorized by the Board of Directors.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

8.1 Severability. A determination that any provision of these Bylaws is for any reason inapplicable, invalid, illegal or otherwise ineffective shall not affect or invalidate any other provision of these Bylaws.

8.2 Amendments. These Bylaws may be amended or repealed and new Bylaws may be adopted by the Board of Directors or the shareholders of the Corporation.

Adopted: March 30, 1994

Amended: July 22, 1994
September 23, 1996
March 25, 1997

MERIX CORPORATION

BYLAW AMENDMENTS

<u>DATE</u>	<u>SECTIONS</u>	<u>COMMENT</u>
07/22/ 94	Art. I, Section 1.1	Changed Date of Annual Meeting
09/23/ 96	Art. I, Sections 1.2, 1.12 and 1.13 Art. II, Sections 2.9 and 2.14 Art. IV, Sections 4.1, 4.2, 4.4, 4.5, 4.6, 4.7, 4.8(1) and (2) and 4.9 Art. VI, Section 6.2(1)	Changed Chairman to Chair
3/25/97	Art. I, Sections 1.4, 1.8(2), 1.12, 1.13(1), (2) and (4) Art. II, Section 2.5	Clarified meeting procedures and notice requirements

DATED 29 SEPTEMBER 2005

EASTERN PACIFIC CIRCUITS HOLDINGS LIMITED

AND

MERIX CORPORATION

**SUPPLEMENTAL
AGREEMENT
RELATING TO
THE MASTER SALE AND
PURCHASE
AGREEMENT
dated 14 April 2005**

**Baker & McKenzie
14th Floor Hutchison
House
Hong Kong**

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(852) 2846-1888
Fax: (852) 2845-0476**

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BETWEEN:

- (1) **EASTERN PACIFIC CIRCUITS HOLDINGS LIMITED**, a company incorporated under the laws of the Cayman Islands, whose registered office is at Century Yard, Cricket Square, Hutchins Drive, P.O. Box 2681GT, George Town, Grand Cayman, British West Indies (the “**Seller**”); and
- (2) **MERIX CORPORATION**, a company incorporated in the State of Oregon, whose registered office is at 1521 Poplar Lane, P.O. Box 3000, F4-234, Forest Grove, OR 97116, United States of America (the “**Buyer**”).

RECITALS:

- (A) By a master sale and purchase agreement dated 14 April 2005, as varied by letter agreements dated 28 July 2005 and 16 September 2005 (the “**SPA**”) between the Seller and the Buyer, the Seller has agreed to sell and the Buyer has agreed to acquire certain businesses and assets/shares of certain subsidiaries directly and indirectly owned by the Seller, upon the terms and subject to the conditions set out in the SPA (the “**Acquisition**”).
- (B) As at the date hereof, Completion of the Acquisition has not taken place. Prior to Completion, the Seller and the Buyer have agreed to amend certain terms of the SPA on the terms and subject to the conditions set out herein.

THE PARTIES AGREE as follows:

1. INTERPRETATION

- 1.1 Capitalised terms used, but not defined, herein shall have the meaning given to them in the SPA.
- 1.2 The provisions of Clauses 1.2.5, 1.2.7 and 1.4 of the SPA shall apply mutatis mutandis to the terms of this Supplemental Agreement.

2. AMENDMENTS TO THE SPA

- 2.1 It is agreed by the parties hereto that, with effect from the date of this Supplemental Agreement (the “**Effective Date**”) the SPA shall be amended and restated by the terms of the Amended and Restated Master Sale and Purchase Agreement in the form set out in the Annex to this Supplemental Agreement.
- 2.2 The Seller and the Buyer hereby confirm that the accrued rights and obligations of the parties under the terms of the SPA remain in full force and effect following the execution of this Supplemental Agreement and that, save as amended by this Supplemental Agreement, the terms of the SPA will remain in full force and effect from the Effective Date.
- 2.3 Nothing in this Supplemental Agreement shall reduce or limit any right of the Seller or the Buyer or any liability of the Seller or the Buyer under the SPA.

3. GENERAL

- 3.1 This Supplemental Deed may be executed in any number of counterparts and by different parties on separate counterparts which when taken together shall be deemed to constitute one instrument. The parties agree that the execution of this Supplemental Agreement may be effected by the exchange of facsimile signature pages, with the exchange of the executed originals as soon as reasonably possible thereafter.
- 3.2 Neither party shall assign, transfer or in any other way alienate any of its rights under this Supplemental Agreement whether in whole or in part without the prior written consent of the other party.
- 3.3 A variation of this Supplemental Agreement is only valid if it is in writing and signed by or on behalf of each party.
- 3.4 Any notice or other communication under or in connection with this Supplemental Agreement shall be served in accordance with Clause 28 of the SPA.
- 3.5 If any provision or part of a provision of this Supplemental Agreement shall be, or be found by any authority or court of competent jurisdiction to be, invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions or parts of such provisions of this Supplemental Agreement, all of which shall remain in full force and effect.

3.6 No failure of a party to exercise, and no delay or forbearance in exercising, any right or remedy in respect of any provision of this Supplemental Agreement shall operate as a waiver of such right or remedy.

4. GOVERNING LAW AND JURISDICTION

This Supplemental Agreement is governed by the laws of the Hong Kong Special Administrative Region of the People's Republic of China. Any dispute arising under this Supplemental Agreement shall be resolved in accordance with Clause 29 of the SPA.

IN WITNESS WHEREOF the parties hereto have executed this Supplemental Agreement on the date first above written.

Signed by **NG LAK CHUAN**
and **WILLIAM HO** duly authorised
representatives of **EASTERN PACIFIC**
CIRCUITS HOLDINGS LIMITED

/s/ NG LAK CHUAN
) _____

/s/ WILLIAM HO
) _____

)

)

Signed by **MARK R. HOLLINGER**,
Chairman and Chief Executive Officer and
a duly authorised representative of
MERIX CORPORATION

/s/ MARK R. HOLLINGER
) _____

)

)

)

Form of Amended and Restated Master Sale and Purchase Agreement

DATED 14 APRIL 2005

EASTERN PACIFIC CIRCUITS HOLDINGS LIMITED

AND

MERIX CORPORATION

**AMENDED AND RESTATED
MASTER SALE AND PURCHASE AGREEMENT**

**Baker & McKenzie, Hong Kong
14th Floor, Hutchison House
10 Harcourt Road
Hong Kong**

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THIS AGREEMENT is made on 14 April 2005

BETWEEN:

- (1) **EASTERN PACIFIC CIRCUITS HOLDINGS LIMITED**, a company incorporated under the laws of the Cayman Islands, whose registered office is at Century Yard, Cricket Square, Hutchins Drive, P.O. Box 2681GT, George Town, Grand Cayman, British West Indies (the “**Seller**”); and
- (2) **MERIX CORPORATION**, a company incorporated in the State of Oregon, whose registered office is at 1521 Poplar Lane, P.O. Box 3000, F4-234, Forest Grove, OR 97116, United States of America (the “**Buyer**”).

RECITALS:

- (A) Each of the companies listed in **part 1 of schedule 1** (the “**Business Sellers**”), Eastern Pacific Circuits (Cayman) Limited (“**EPC Cayman**”), a company incorporated under the laws of the Cayman Islands, and Eastern Pacific Circuits Limited (“**EPCL**”), a company incorporated under the laws of the Cayman Islands, is a direct or indirect wholly-owned subsidiary of the Seller.
- (B) EPC Cayman is the beneficial owner of all of the issued shares in the capital of Eastern Pacific Circuits Investments Limited (“**EPCI HK**”), a company incorporated under the laws of Hong Kong, and EPCL is the registered holder and beneficial owner of all of the issued shares in the capital of Eastern Pacific Circuits Investments (Singapore) Pte Ltd (“**EPCI Singapore**”), a company incorporated under the laws of Singapore.
- (C) The Seller has agreed to procure (a) the sale by each of the Business Sellers of its business and assets, (b) the sale by EPC Cayman of all of the issued shares in the capital of EPCI HK (the “**HK Shares**”) and (c) the sale by EPCL of all of the issued shares in the capital of EPCI Singapore (the “**Singapore Shares**”), in each case on the terms and subject to the conditions set forth in this Agreement.

THE PARTIES AGREE as follows:

1. **INTERPRETATION**

1.1 In this Agreement:

“**Accepting Employees -HK**” has the meaning set forth in **clause 17.2.4**;

“**Accounts Receivable**” means, in relation to each Business, all the book and trade debts, notes, receivables and other debts and amounts owing to the relevant Business Seller in connection with the relevant Business (and whether or not yet due and payable) at Completion (including, without limitation, trade debts, deposits, prepayments, retrospective rebates and overpayments) all rights in relation thereto and the benefit of all guarantees or other security in respect thereof and interest thereon;

“**Acquiring Buyer Company**” has the meaning set forth in **clause 11.1.2**;

“**Actual Closing Cash Amount**” means the aggregate amount of the bank balances, cash, cash on deposit, short-term securities and investment accounts, including amounts for which cheques have been received by the relevant member of the EPCI HK Group and the EPCI Singapore Group or deposited in the bank accounts of the relevant member of the EPCI HK Group and the EPCI Singapore Group for which cheques have not cleared the drawer’s bank accounts at Completion and which were collected prior to the delivery of the Completion Statement, of each member of the EPCI HK Group and the EPCI Singapore Group as at the close of business on the day immediately before the Completion Date provided that there shall be deducted from such aggregate amount amounts for which cheques have been written by the relevant member of the EPCI HK Group and the EPCI Singapore Group, which cheques have not cleared the bank account as of Completion;

“**Actual Adjusted 2005 EBITDA**” means the audited consolidated profit before taxation, interest, depreciation and amortisation in respect of each Business and each member of the EPCI HK Group and EPCI Singapore Group for the financial year ended 31 December 2005 less all payments made or accrued in respect of capital leases (as defined in HK GAAP) determined in accordance with **clause 8.3** and adjusted in accordance with **Part A of schedule 14**;

“**Amount Claimed**” has the meaning set out in **clause 7.1.1**;

“**Approval**” has the meaning set forth in **paragraph 8 of Schedule 3**;

“**Assumed Liabilities**” means all Liabilities of the Business Sellers as at Completion (including accounts payable) in connection with the relevant Business and/or the Business Assets, including, without limitation, those Liabilities set out in **part 4 of schedule 1** and excluding the Excluded Liabilities;

“**Auditors**” means PricewaterhouseCoopers, the auditors of the Group and the Buyer;

“**Available Records**” has the meaning set out in **clause 21.1**;

“**Borrowings**” means all sums outstanding under (a) the credit agreement dated 10 August 2000 (as amended and supplemented from time to time) between, inter alia, (i) Eastern Pacific Circuits Limited (formerly known as Pacific Circuits Limited) as parent borrower, (ii) Eastern Pacific Circuits (HK) Ltd (formerly known as Wong’s Circuits Limited) as subsidiary borrower, (iii) Standard Chartered Bank (Hong Kong) Limited as administrative agent and a group of lenders, pursuant to which the lenders agreed to provide US\$150,000,000 to Eastern Pacific Circuits Limited and Eastern Pacific Circuits (HK) Limited; and (b) a facility agreement dated 28 April 2004 between Eastern Pacific Investments (Singapore) Pte Limited and Standard Chartered Bank (Hong Kong) Limited as administrative agent, and a group of lenders pursuant to

which the lenders agreed to provide a US\$5,100,000 facility to Eastern Pacific Circuits Investments (Singapore) Pte Limited, being all interest bearing borrowings and Indebtedness in the nature of borrowings of the Group from financial institutions;

“**Business**” means, in relation to each Business Seller, the business carried on by that Business Seller as at Completion, and excluding only the Excluded Assets;

“**Business Assets**” means, in relation to each Business, all the property, undertaking, benefits, title, rights and assets of the relevant Business Seller, including, without limitation, the categories of assets set out in **part 2 of schedule 1** and excluding only the Excluded Assets;

“**Business Claims**” means the benefit of all rights and claims arising from, or coming into existence as a result of, the carrying on of any Business by a Business Seller whether arising on, prior to or after Completion, other than rights and claims relating to the Excluded Assets or the Excluded Liabilities;

“**Business Goodwill**” means the goodwill relating to each Business, together with the right for the Buyer or relevant Buyer’ s Group Company to represent itself as carrying on that Business in succession to the relevant Business Seller;

“**Business IP**” means, in relation to each Business, the Intellectual Property owned by the relevant Business Seller which is used in connection with the Business;

“**Business Contracts**” means, in relation to each Business Seller, all the contracts, engagements, licences, guarantees, sale and purchase orders and other commitments relating to the relevant Business at Completion, which have been entered into or undertaken by or on behalf of, or the benefit of which are held on trust for or have been assigned to, that Business Seller which in any case are current uncompleted or unperformed or in respect of which that Business Seller has any rights, claims, benefits entitlements, Liabilities or obligations relating to the Business, including the Business Insurance Policies, the Hong Kong Lease (provided that consent of assignment of the Hong Kong Lease is obtained from the Hong Kong Science and Technology Park Corporation) and agreements or other documents relating to ownership or occupation of the Business Properties, but excluding all employment contracts;

“**Business Day**” means a day other than a Saturday or Sunday or public holiday in Hong Kong, Canada, Singapore, the Cayman Islands or the United States of America;

“**Business Insurance Policies**” means the insurance policies set out in **part 8 of schedule 1**;

“**Business Motor Vehicles**” means, in relation to each Business, the motor vehicles owned by the relevant Business Seller and used by it for the purposes of that Business;

“**Business Plant and Equipment**” means, in relation to each Business, all the loose plant, machinery, equipment, tooling and furniture of the relevant Business Seller (not being business fixtures and fittings forming part of the Business Properties) used for the purposes of that Business;

“**Business Properties**” means the properties owned by and occupied by the Business Sellers, details of which are set out in **part 6A** of **schedule 1**;

“**Business Records**” means, in relation to each Business, any lists of present and former customers and suppliers, business plans and forecasts, notices, enquiries, orders, correspondence, computer disks, tapes or other machine readable or other records of a financial or marketing nature to the extent that they relate to the Business and are owned by the Business Seller but excluding any of the foregoing to the extent that they are Excluded Assets;

“**Business Sellers**” has the meaning set forth in **Recital (A)**;

“**Business Tax**” means, all forms of taxation, deductions, withholdings, duties, imposts, levies, fees, charges and rates imposed, levied, collected, withheld or assessed by any Government Authority and any interest, additional taxation penalty, surcharge or fine in connection therewith payable by any Business Seller relating to the use and ownership of the Business Assets and the operation of the Business prior to the Completion Date;

“**Buyer MPF Scheme**” means the mandatory provident fund scheme established by the Buyer or the relevant Buyer’ s Group Company for its Hong Kong employees;

“**Buyer Obligation**” means any representation, warranty or undertaking to indemnify given by the Buyer to the Seller under this Agreement or any of the Other Documents;

“**Buyer’ s Completion Documents**” has the meaning set out in **clause 11.1.4**;

“**Buyer’ s Group**” means the Buyer or a company which is its ultimate parent company and each subsidiary of the Buyer and of its ultimate parent company from time to time and includes, for the avoidance of doubt, after Completion, each of EPCI HK, EPCI Singapore and their subsidiaries, and “**Buyer’ s Group Company**” means any one of them;

“**Canadian Property**” means all of Eastern Pacific Circuits (Canada) Limited’ s rights, title and interest in the property situated at Units 37, 38 and 39, Level 1, York Region Condominium Corporation No. 711, 145 Royal Crest Court, Markham, Ontario, Canada;

“**Cash**” means, in relation to each Business, all cash (including cash in-hand and cash at bank), cash on deposit and short-term securities and investment accounts held by the relevant Business Seller for the purposes of the Business;

“**Closing Working Capital**” means Working Capital as at the Completion Date;

“**Completion**” means completion of the sale and purchase of the Businesses, the Business Assets, the HK Shares and the Singapore Shares in accordance with this Agreement;

“**Completion Date**” means the later of: (i) 15 June 2005; and (ii) the date which is five (5) Business Days after the date on which the last of the Conditions is satisfied or waived provided that this date shall not be earlier than the date which is 60 days after the date on which the Condition in **clause 4.1.1(a)** is satisfied or waived or such other date as may be agreed by both parties in writing;

“**Completion Statement**” has the meaning set out in **clause 6.1**;

“**Condition**” means a condition set out in **clause 4.1** and “**Conditions**” means all those conditions;

“**Consent**” has the meaning set out in **clause 16.3**;

“**Costs**” means obligations, Liabilities, losses, damages, costs (including reasonable legal costs) and expenses (including interest and Tax), actions, proceedings, claims, demands, penalties and compensation awards in each case of any nature whatsoever;

“**Debt Amount**” means the Borrowings of the Group on the Completion Date, as determined by the Lenders and notified in writing to the parties no later than three (3) Business Days before the Completion Date and, for the avoidance of doubt, such amount shall be expressed in US\$;

“**Deduction**” has the meaning set out in **clause 7.1.1**;

“**Defaulting Party**” has the meaning set out in **clause 5.4**;

“**Desay Land Premium Payment**” means 50% of RMB5,915,133 being the amount payable to 惠州市德賽集團有限公司 (Desay) pursuant to the contribution of the land use right agreement dated 18 November 2004 between Eastern Pacific Circuits Investments (Singapore) Pte Limited, 惠州市德賽集團有限公司 (Desay) and Eastern Pacific Circuits (Huiyang) Ltd (瑞花電路 (惠陽) 有限公司) in respect of the transfer by 惠州市德賽集團有限公司 (Desay) of the land to Eastern Pacific Circuits (Huiyang) Ltd. by way of capital contribution less the aggregate of any instalment payments made by Eastern Pacific Circuits (Huiyang) Ltd to 惠州市德賽集團有限公司 (Desay) during the period from and including 1 January 2005 up to and including the Completion Date provided that where this results in a negative figure then, for the purposes of **clause 6.6.1**, the negative amount shall be added to the Closing Working Capital rather than subtracted from the Closing Working Capital;

“**Disclosed**” means referred to in the Disclosure Letter;

“**Disclosed Financial Statements**” has the meaning given to it in **paragraph 6.2 of schedule 3**;

“**Disclosure Letter**” means a letter of the date hereof from the Seller to the Buyer making disclosures in respect of the Warranties;

“**EA Transferring Employees - Singapore**” means the Transferring Employees-Singapore who fall within the ambit of the Singapore Employment Act;

“**Earnout Statement**” has the meaning set out in **clause 8.1**;

“**EBITDA Earnout Consideration**” shall be determined in accordance with **clause 8.4**;

“**Encumbrance**” means a lien, charge, pledge, any interest or equity of any persons (including, without limitation, any right to acquire, option or right of pre-emption) and any charge, pledge, mortgage, security interest, assignment, power of sale or other encumbrance or right exercisable by a third party (whether or not perfected) having similar effect but excluding the Permitted Encumbrances;

“**Environmental Laws**” means any statute, ordinance, regulation, rule, policy, interpretation, guideline or decree (including consent decrees, guidance documents and administrative orders) in effect as of Completion, applicable to any Target Group Company, its business, or the real property from which it conducts its business, enacted or promulgated by any Government Authority having jurisdiction over any Target Group Company for the activities it conducts that (i) regulates the exposure to, the amount, form, presence, emission, discharge, release, threat of release, processing, use, treatment, storage, disposal, handling, generation or production of any hazardous substance, including any permit, license, approval, consent or authorization required therefor; (ii) requires any reporting or dissemination of or access to information regarding hazardous substances, including warnings or notices to employees; or (iii) relates to or addresses human health or safety, including occupational health and safety;

“**EPC Cayman**” has the meaning set forth in **Recital (A)**;

“**EPCI HK**” has the meaning set forth in **Recital (B)**;

“**EPCI HK Group**” means EPCI HK, Eastern Pacific Circuits (Dongguan) Ltd and Lomber Circuits (Huizhou) Limited;

“**EPCI Singapore**” has the meaning set forth in **Recital (B)**;

“**EPCI Singapore Group**” means EPCI Singapore, Eastern Pacific Circuits (Huiyang) Limited and Eastern Pacific Circuits (Huizhou) Limited;

“**EPCL**” has the meaning set forth in **Recital (A)**;

“**Estimated Closing Cash Amount**” means the aggregate amount estimated by the Seller of the bank balances, cash, cash on deposit, short-term securities and investment accounts, including amounts for which cheques have been received by the relevant member of the EPCI HK Group and the EPCI Singapore Group or deposited in the bank accounts of the relevant member of the EPCI HK Group and the EPCI Singapore Group which cheques have not cleared the drawer’s bank accounts, of each member of the EPCI HK Group and the EPCI Singapore Group as at the close of business on the day immediately before the Completion Date provided that there shall be deducted from such aggregate amount amounts for which cheques have been written by the relevant member of the EPCI HK Group and the EPCI Singapore Group, which cheques have not cleared the bank account as of Completion;

“**Event**” means an event, act, transaction or omission including, without limitation, a receipt or accrual of income or gains, distribution, failure to distribute, acquisition, disposal, transfer, payment, loan or advance;

“**Excluded Assets**” means the assets set out in **part 3 of schedule 1**;

“**Excluded Liabilities**” means the liabilities set out in **part 5 of schedule 1**;

“**Expert**” means an independent firm of chartered accountants mutually appointed by the parties hereto or by the President of the Hong Kong Society of Accountants for the time being, as the case may be, in accordance with **clause 6.3** and/or **clause 8.5**;

“**Financial Statements**” means the audited consolidated financial statements of the Group for each of the financial years ended 31 December 2004, 31 December 2003, 31 December 2002 and 31 December 2001 (such financial statements including without limitation, in each case a balance sheet, profit and loss account and cash flow statement together with the notes thereon);

“**Fundamental Warranty**” means a statement contained in **paragraphs 1, 2, 2A, 3, 4 and 5.2 in schedule 3** and “**Fundamental Warranties**” means all those statements;

“**Fundamental Warranty Cap**” means at any given time, the liability cap determined in accordance with the table set out in Part 1 of Schedule 9 by reference to the relevant Total Consideration set out in Column 1 of Part 1 of Schedule 9 on the relevant date referred to in sub-columns 2(a), (b), (c) or (d) of Part 1 of Schedule 9;

“**Fundamental Warranty Claim**” means a claim by the Buyer under or pursuant to the provisions of **clause 9.1** in respect of any Fundamental Warranty;

“**FY2003 Audited Accounts**” means the Financial Statements of the Group for the year ended 31 December 2003;

“**FY2004 Audited Accounts**” means the Financial Statements of the Group for the year ended 31 December 2004;

“**FY2004 EBITDA**” means the audited consolidated profit before taxation, interest, depreciation and amortisation of the Group for the financial year ended 31 December 2004 and derived from the FY2004 Audited Accounts, adjusted to add back all costs and expenses relating to or incurred in connection with the restructuring of the Debt Amount;

“**FY2004 Working Capital**” means the Working Capital as at 31 December 2004, derived from the FY2004 Audited Accounts;

“**FY2005 Monthly Management Accounts**” means the unaudited consolidated monthly management accounts of the Group, together with the notes thereon (if any), and the consolidation worksheets of the Group for the period from 1 January 2005 to the last day of the calendar month immediately preceding the Completion Date, provided that if the Completion Date is less than four (4) weeks after the end of any calendar month, then the unaudited consolidated monthly management accounts of the Group together with the notes thereon (if any) and the consolidation worksheets of the Group shall be delivered in respect of the period from 1 January 2005 to the last day of the calendar month immediately preceding such month end;

“**General Claim Cap**” means at any given time, the liability cap determined in accordance with the table set out in Part 2 of Schedule 9 by reference to the relevant Total Consideration set out in Column 1 of Part 2 of Schedule 9 on the relevant date referred to in sub-columns 2(a), (b) or (c) of Part 2 of Schedule 9;

“**Government Authority**” means any nation or government, any state, municipality, or other political subdivision thereof, and any agency, bureau, board commission, department or other entity exercising executive, legislative, judicial, regulatory, administrative or other similar functions;

“**Group**” means EPCL and each of its subsidiaries and “**Group Company**” means any one of them;

“**HK GAAP**” means the generally accepted accounting standards, principles and practices applicable in Hong Kong;

“**HK Shares**” has the meaning set forth in **Recital (C)**;

“**HKIAC**” has the meaning set out in **clause 29.2**;

“**Hong Kong**” means the Hong Kong Special Administrative Region of the People’s Republic of China;

“**Hong Kong Lease**” means the lease for the property situated at Section F of Tseung Kwan O Town Lot No. 39 and Extensions thereto, New Territories, Hong Kong dated 17 July 2000 between The Hong Kong Science and Technology Park Corporation and Eastern Pacific Circuits Property Limited, as amended;

“**Indebtedness**” means, in relation to the Target Group, any borrowings and indebtedness (including by way of acceptance credits, finance leases, loan stocks, bonds, debentures, notes, debt or inventory financing or sale and lease back arrangements, overdrafts or any other arrangements the purpose of which is to borrow money) owed to any banking, financial, acceptance credit, lending or other similar institution or organisation and any institutional investor which is not another member of the Target Group;

“**Initial Consideration**” has the meaning set forth in **clause 3.1**;

“**Intellectual Property**” means (a) all patents, trademarks, service marks, logos, and corporate names registered designs, applications and rights to apply for any of those rights, internet domain names, copyrights and unregistered trade marks and service marks; (b) research and development information, financial, marketing and business data, pricing and costs information, trade secrets and confidential business information; and (c) the right to sue for past infringements of any of the foregoing rights;

“**Intellectual Property Rights**” means the all Intellectual Property owned or used by the Target Group (including the Business IP);

“**Intra-Group Indebtedness**” means all outstanding amounts owing immediately prior to Completion to or from the Target Group, on the one hand, and the EPC Group (which for the purposes of this definition shall mean the Seller’s Group excluding the Target Group) on the other hand;

“**Inventory**” means, in relation to each Business, all raw materials, supplies, work in progress, parts and components and finished goods held, used or owned by the relevant Business Seller at Completion;

“**Law**” means any law, rule, regulation, order, writ, judgment, decree, injunction, determination or award;

“**Lenders**” means the financial institutions to which the Borrowings are owed;

“**Liabilities**” means all liabilities, duties and obligations of every description, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent or ascertained or unascertained and whether owed or incurred severally or jointly or as principal or surety;

“**Management Accounts**” means the unaudited consolidated financial statements of the Group for each of the financial years ended 31 December 2003 and 31 December 2004 (such financial statements including without limitation, in each case a balance sheet, profit and loss account and cash flow statement together with the notes thereon, (if any));

“**Material Adverse Change**” means any event, condition, circumstance, incident or fact that is or would reasonably be expected to have a material adverse effect on the business or financial position of the Target Group as a whole, or the assets (including intangible assets) or liabilities of the Target Group as a whole;

“**Material Contracts**” has the meaning set forth in **paragraph 13.1 of schedule 3**;

“**Merix Caymans**” means Merix Caymans Trading Company Limited, an indirect wholly owned subsidiary of Buyer;

“**Minority Dividend**” means the dividend(s) declared by Eastern Pacific Circuits (Huizhou) Ltd. of US\$1,600,000 that is payable to 惠州市德賽工業發展有限公司;

“**Non-EA Transferring Employees - Singapore**” means the Transferring Employees-Singapore who do not fall within the ambit of the Singapore Employment Act;

“**Non-Defaulting Party**” has the meaning set out in **clause 5.4**;

“**Note**” means the promissory note to be issued by Merix Caymans to the Seller in accordance with **clause 5.2.3**, in the form set out in **schedule 8**;

“**Notice**” has the meaning set out in **clause 28.1**;

“**Other Documents**” means all other documents, agreements and certificates that are, or are required to be, executed pursuant to this Agreement;

“**Permitted Encumbrances**” means the Retained Security or security interests or liens arising by operation of law or pursuant to title retention provisions under sales contracts, equipment leases or hire purchase agreements with third parties entered into in the ordinary course of business;

“**Policies**” has the meaning set out in **paragraph 16.1 of schedule 3**;

“**Post-Cash Working Capital Shortfall**” has the meaning set out in **clause 6.8**.

“**PRC**” means the People’ s Republic of China excluding, for the purposes of this Agreement, Hong Kong, the Macau Special Administrative Region of the People’ s Republic of China and Taiwan;

“**Property**” means the property or properties of the Target Group, details of which are set out in **part 6B of schedule 1**;

“**Principal**” has the meaning set forth in the Recital of the Note;

“**Principal Payment**” has the meaning set forth in paragraph 3(c) of the Note;

“**Recipient**” has the meaning set forth in **clause 20.6**;

“**Reference Banks**” means The Hongkong and Shanghai Banking Corporation Limited and Standard Chartered Bank;

“**Relevant Claim**” means a claim by the Buyer under or pursuant to the provisions of **clause 9.1** or the Tax Deed or any other provision of this Agreement or the Other Documents;

“**Relevant Element**” has the meaning set out in **clause 16.3**;

“**Relevant Period**” means the period from the Completion Date up to and including 31 December 2005;

“**Representation**” has the meaning set out in **clause 26**;

“**Retained Group**” means the Group excluding the EPCI HK Group and the EPCI Singapore Group and “**Retained Group Company**” means any one of them;

“**Retained Security**” means the Security relating to the EPCI HK Group and the EPCI Singapore Group which, pursuant to the Buyer’s request, will not be released by the Lenders upon Completion;

“**Rules**” has the meaning set out in **clause 29.2**;

“**Sale Business and Assets**” has the meaning set forth in **clause 3.1**;

“**Security**” means any surety, guarantee and security provided by the Group to the Lenders to secure the obligations of the relevant Group Companies in respect of the Borrowings;

“**Security Release Documents**” means the documents required to be executed by the Lenders and the relevant Seller’s Group Companies for the purposes of releasing the Security other than the Retained Security upon the repayment of the Debt Amount to the Lenders on Completion;

“**Seller MPF Scheme**” means the mandatory provident fund scheme established by or on behalf of the Seller or Eastern Pacific Circuits (HK) Limited in respect of the Transferring Employees - HK;

“**Seller Obligation**” means any representation, warranty or undertaking to indemnify given by the Seller to the Buyer under this Agreement or any of the Other Documents, including, without limitation, pursuant to a Relevant Claim;

“**Seller’s Group**” means the Seller and each subsidiary of the Seller from time to time and includes, for the avoidance of doubt, each of the Business Sellers and, before Completion, each member of the EPCI HK Group and the EPCI Singapore Group, and

“**Seller’s Group Company**” means any one of them;

“**Seller’s Group RRSP**” has the meaning set forth in **clause 17.1.4**;

“**Singapore Employment Act**” means the Singaporean Employment Act (Cap 91);

“**Singapore Shares**” has the meaning set forth in **Recital (C)**;

“**Singapore Statutory Transfers**” means the transfers of employees contemplated under Section 18A of the Singapore Employment Act;

“**Stock**” means, in relation to each Business, the Inventory, stock-in-trade and work-in-progress owned or agreed to be purchased by the relevant Business Seller in connection with the Business at Completion, wherever held;

“**Target Group**” means the EPCI HK Group, the EPCI Singapore Group and the Business Sellers, and “**Target Group Company**” means any company that is a member of the EPCI HK Group or the EPCI Singapore Group or that is a Business Seller;

“**Tax**” or “**Taxes**” means all (i) forms of taxation, taxes, deductions, withholdings, duties, imposts, levies, fees, charges and rates or other like assessments or charges of any kind (including, without limitation, net income, gross income, receipts, profit, business and occupation, license, excise, registration, franchise, employment, payroll, withholding, ad valorem, transfer, gains, stamp duty, capital, paid-up capital, profits, premium, value-added, business tax, real property, personal property, inventory and merchandise, commercial rent or environmental tax) imposed, levied, collected, withheld or assessed by any Government Authority and any interest, additional taxation, penalty, surcharge or fine in connection therewith, (ii) liability in respect of any items described in clause (i) payable by any member of the EPCI HK Group or the EPCI Singapore Group with respect to any period (or portion thereof) prior to the Completion Date by reason of being a member of any affiliated, combined, unitary, consolidated or similar group (including any arrangement for group or similar relief within a jurisdiction), and (iii) liability in respect of any items described in clause (i) or (ii) payable by reason of contract, assumption, transferee liability, operation of Law or otherwise;

“**Tax Deed**” means the deed to be entered into among the Seller, the Buyer, EPCI HK and EPCI Singapore in the form set out in **schedule 13**;

“**Tax Return**” means any and all reports, returns, estimates, information statements or other information, including any schedules or attachments thereto and any amendment thereof, required to be supplied to a Government Authority in connection with any Taxes;

“**Total Consideration**” means the Initial Consideration plus the EBITDA Earnout Consideration less an amount equal to the Post-Cash Working Capital Shortfall;

“**Transferring Employees**” means the Transferring Employees - Canada, the Transferring Employees - HK, the Transferring Employees - Singapore, the Transferring Employees - UK and the Transferring Employees - US, and “**Transferring Employee**” means any of them;

“**Transferring Employees - Canada**” means the employees of Eastern Pacific Circuits (Canada) Limited set out in **part 7.1 of schedule 1** and who continue to be employed by Eastern Pacific Circuits (Canada) Limited on the Completion Date and any person who becomes an employee of Eastern Pacific Circuits (Canada) Limited after the last practicable date prior to signing of this Agreement but before the Completion Date;

“**Transferring Employees - HK**” means the employees of Eastern Pacific Circuits (HK) Limited set out in **part 7.2 of schedule 1** and who continue to be employed by Eastern Pacific Circuits (HK) Limited on the Completion Date and any person who becomes an employee of Eastern Pacific Circuits (HK) Limited after the last practicable date prior to signing of this Agreement but before the Completion Date;

“**Transferring Employees - Singapore**” means the employees of Eastern Pacific Circuits (Singapore) Pte Ltd set out in **part 7.3 of schedule 1** and who continue to be employed by Eastern Pacific Circuits (Singapore) Pte Ltd on the Completion Date and any person who becomes an employee of Eastern Pacific Circuits (Singapore) Pte Ltd after the last practicable date prior to signing of this Agreement but before the Completion Date;

“**Transferring Employees - UK**” means the employees of Eastern Pacific Circuits (UK) Limited set out in **part 7.4 of schedule 1** and who continue to be employed by Eastern Pacific Circuits (UK) Limited on the Completion Date and any person who becomes an employee of Eastern Pacific Circuits (UK) Limited after the last practicable date prior to signing of this Agreement but before the Completion Date;

“**Transferring Employees - US**” means the employees of Eastern Pacific Circuits (USA) Corporation set out in **part 7.5 of schedule 1** and who continue to be employed by Eastern Pacific Circuits (USA) Corporation on the Completion Date and any person who becomes an employee of Eastern Pacific Circuits (USA) Corporation after the last practicable date prior to signing of this Agreement but before the Completion Date;

“**UK Transfer Regulations**” means the United Kingdom Transfer of Undertakings (Protection of Employment) Regulations 1981;

“**Warranty**” means a statement contained in **schedule 3** and “**Warranties**” means all those statements;

“**Warranty Claim**” means a claim by the Buyer under or pursuant to the provisions of **clause 9.1**;

“**Working Capital**” means, as of a given date, the aggregated working capital of the Group as at that date and which shall be determined on the basis of and taking into account the line items set out in **schedule 10**.

1.2 In this Agreement, a reference to:

1.2.1 “**HK\$**” means the lawful currency of Hong Kong;

1.2.2 “**US\$**” means the lawful currency of the United States of America;

1.2.3 “**S\$**” means the lawful currency of Republic of Singapore;

1.2.4 a document in the “**agreed form**” is a reference to a document in a form approved and for the purposes of identification initialled by or on behalf of each party;

1.2.5 a law or statutory provision (or equivalent thereof) includes a reference to the law or statutory provision (or equivalent thereof) as modified or re-enacted or both from time to time before the date of Completion;

1.2.6 a “**person**” includes a reference to any individual, firm, company, corporation or other body corporate, government, state or agency of a state or any joint venture, association or partnership (whether or not having separate legal personality);

1.2.7 a “**party**” includes a reference to that party’ s successors;

1.2.8 where any statement is to the effect that the Seller is not aware of a matter or circumstance or a statement is qualified by the expression “to the **Seller’ s knowledge**” or “**so far as the Seller is aware**”, or any similar or like expression, that statement shall be deemed to include a further statement that the original statement was made after due and careful enquiry of the board of directors of the Seller and senior management of the Seller, EPCL and Eastern Pacific Circuits (HK) Limited;

- 1.2.9 a clause, paragraph, Recital, schedule or Annexure, unless the context otherwise requires, is a reference to a clause or paragraph of, or Recital, schedule or Annexure to, this Agreement; and
- 1.2.10 except where otherwise stated, all times of the day are to Hong Kong time.
- 1.3 In this Agreement:
- 1.3.1 a company shall be deemed to be a “**subsidiary**” of another company, its “**holding company**”, if that other company (a) holds a majority of the voting rights in it, or (b) is a member of it and has the right to appoint or remove a majority of its board of directors, or (c) is a member of it and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in it; or if it is a subsidiary of a company which is itself a subsidiary of that other company; and
- 1.3.2 a person shall be deemed to be an “**affiliate**” of a company if that person is a subsidiary or a holding company of that company.
- 1.4 The headings in this Agreement do not affect its interpretation.
- 1.5 For the purposes of determining the amount of any payment under this Agreement, any monetary sum which is not in US\$ shall be translated into US\$ at the average of the spot rates of exchange quoted by the Reference Banks for the purchase of US\$ with such foreign currency in the Hong Kong foreign exchange market at or about 11:00 a.m. (Hong Kong time) on the three (3) Business Days before the date on which the payment is due or such other exchange rate agreed between the Seller and the Buyer.
- 1.6 All payments to be made pursuant to **clauses 3, 5.2.3, 5.2.4, 6.6, 6.7, and 8** shall be made in immediately available funds by transfer of funds for same day value to such accounts and in such amounts as shall be notified by the Seller, the Buyer or the Lenders, as the case may be, at least three Business Days before the date on which the payment is due.
- 1.7 If any payment is made pursuant to this Agreement in respect of a liability arising under a Seller Obligation or a Buyer Obligation, it shall be made on the following basis:
- 1.7.1 if such payment is specifically referable to any particular Business or Business Asset, it shall so far as possible adjust the price paid for the relevant Business or Business Asset;
- 1.7.2 if such payment is specifically referable to the EPCI HK Group or the EPCI Singapore Group, it shall so far as possible adjust the price paid for the HK Shares or the Singapore Shares, as applicable; and

1.7.3 if any payment is not so specifically referable, an adjustment shall be made *pro rata* to the price paid for all of the Businesses, Business Assets, HK Shares and Singapore Shares.

2. SALE AND PURCHASE

2.1 Subject to and in accordance with this Agreement:

2.1.1 the Seller shall procure the sale and transfer by the relevant Business Seller of, and the Buyer relying on the several representations, Warranties and undertakings contained in this Agreement shall purchase, or procure the purchase by the relevant Buyer's Group Company, each Business (including the Business Assets in relation to each Business), in each case as a going concern with effect from Completion and free of any Encumbrance;

2.1.2 the Seller shall procure the sale by EPC Cayman of, and the Buyer shall procure the purchase by the relevant Buyer's Group Company of, all of the HK Shares, and the sale by EPCL of all of the Singapore Shares, and each right attaching to the HK Shares and the Singapore Shares at or after Completion, free of any Encumbrance; and

2.1.3 the Buyer relying on the several representations, Warranties and undertakings contained in this Agreement shall, and shall procure that the relevant Buyers' Group Company shall, assume and discharge any Assumed Liabilities in relation to each Business in accordance with **clause 14.1**.

2.2 Nothing in this Agreement or in any of the Other Documents shall transfer any of the Excluded Assets to the Buyer or any Buyer's Group Company or make the Buyer or any Buyer's Group Company liable for any of the Excluded Liabilities.

2.3 All title, rights, benefits, advantages and risks (including risk of loss or damage) to the Business Assets shall pass to the Buyer or the relevant Buyer's Group Company on Completion, except as otherwise provided in this Agreement or as otherwise agreed in writing.

2.4 Without prejudice to any other rights or remedies of the Buyer, the Seller or a Business Seller under this Agreement, if any right, claim or asset which does not form part of a Business has been transferred to or is vested in a Buyer's Group Company and the Seller gives written notice to the Buyer of the same at any time in the six months following Completion, the Buyer shall (and the Seller shall provide such assistance to the Buyer as the Buyer reasonably requires for this purpose), so far as it is able, transfer, or procure the transfer of, such right, claim or asset, together with any benefit or sum (net of Tax and other out of pocket expenses) accruing to any Buyer's Group Company as a result of holding such right, claim or asset since Completion, as soon as practicable, to such person as the Seller shall direct on terms that no consideration is provided by any person for such transfer.

- 2.5 Except as provided in **clauses 15 and 16**, and without prejudice to any other rights or remedies of the Buyer, the Seller or a Business Seller under this Agreement, if any right, claim or asset which forms part of the Business (other than an Excluded Asset) has not been transferred to or is not vested in a Buyer' s Group Company and the Buyer gives written notice to the Seller of the same at any time in the six months following Completion, the Seller shall (and the Buyer shall provide such assistance to the Seller as the Seller reasonably requires for this purpose), so far as it is able, transfer, or procure the transfer of, such right, claim or asset, together with any benefit or sum (net of Tax and other out of pocket expenses) accruing to any Seller' s Group Company as a result of holding such right, claim or asset since Completion, as soon as practicable, to such person as the Buyer shall direct on terms that no consideration is provided by any person for such transfer.
- 2.6 The Seller undertakes to the Buyer that it will procure the compliance of all Business Sellers with any obligation which is referred to in this Agreement as an obligation of a Business Seller, and will procure the compliance of each Seller' s Group Company with all Seller Obligations, including without limitation, the Tax Deed.
- 2.7 The Buyer undertakes to the Seller that it will procure the compliance of all Buyer' s Group Companies with any obligation which is referred to in this Agreement as an obligation of a Buyer' s Group Company and will procure the compliance of each Buyer' s Group Company with all Buyer Obligations, including without limitation, the Tax Deed.

3. **INITIAL CONSIDERATION**

- 3.1 The initial consideration payable by the Buyer to the Seller for the Business (with the Business Assets), the HK Shares and the Singapore Shares (collectively the "**Sale Business and Assets**") shall be US\$115,000,000 (the "**Initial Consideration**").
- 3.2 As soon as reasonably practicable after signing of this Agreement, the Buyer and the Seller shall use their reasonable endeavours to agree in writing the apportionment of the Initial Consideration among the respective Sale Business and Assets.

4. **CONDITIONS**

- 4.1 Completion is conditional on the following Conditions being satisfied (or in the case of the Conditions in **clause 4.1.1, 4.1.4, 4.1.5, 4.1.9, 4.1.10, 4.1.12 or 4.1.13** waived by the Buyer, or in the case of the Condition in **clause 4.1.7**, waived by the Seller) on or before 5.00 p.m. on 30 September 2005:

- 4.1.1 (a) the Seller having delivered to the Buyer a copy of the FY2003 Audited Accounts and the FY2004 Audited Accounts; and (b) that the financial position of the Group as reflected in the FY2003 Audited Accounts and the FY2004 Audited Accounts does not constitute a Material Adverse Change when compared with the financial position of the Group as reflected in the Management Accounts in respect of the same financial year;
- 4.1.2 the Seller having obtained the consent of the Lenders, conditional on the Buyer complying with **clause 5.2.3**, for the proposed sale of the HK Shares, the Singapore Shares, each Business and the Business Assets to the Buyer and for the release of the Security other than the Retained Security upon the repayment of the Debt Amount to the Lenders on Completion and such consent remaining in full force and effect and if such consent is given subject to any conditions then, in relation to any conditions that relate to the repayment of the Debt Amount, such conditions being acceptable to the Seller;
- 4.1.3 the Lenders having confirmed in writing that the Debt Amount does not exceed US\$92,888,736.68;
- 4.1.4 the Warranties remaining true and accurate and not misleading in any material respect at Completion as if repeated at Completion, provided, however, that unless a breach of any Warranty is or is reasonably likely to amount to, when aggregated with all other breaches of any Warranty, a Material Adverse Change, the Seller shall be deemed to have satisfied the Condition in this **clause 4.1.4**;
- 4.1.5 EPCI HK having transferred the 5,468,040 shares in Lomber Investments Limited held by it to Universal Enterprise Limited at book value;
- 4.1.6 the Seller and the Buyer having obtained the consent of The Hong Kong Science and Technology Park Corporation for the assignment of the Hong Kong Lease to a Buyer's Group Company, or the surrender and replacement of that Hong Kong Lease with a new lease with a Buyer's Group Company over the same property that is the subject of the Hong Kong Lease, on terms reasonably satisfactory to the Buyer;
- 4.1.7 the Buyer having delivered to the Seller a duly executed Note;
- 4.1.8 the Seller and the Buyer confirming in writing that neither party has had any claim notified to it in relation to the Excluded Liabilities in response to the notices served by it under the Transfer of Businesses (Protection of Creditors) Ordinance pursuant to **clause 13**, other than those claims in relation to the Excluded Liabilities which are paid, compromised, or settled with or by the Seller (at its own cost);

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- 4.1.9 the Seller having delivered to the Buyer the FY2005 Monthly Management Accounts;
- 4.1.10 the Seller having delivered evidence which is reasonably satisfactory to the Buyer that the Tax Return for EPCI Singapore in respect of the financial year ended 31 December 2003 has been filed with the respective tax authority in Singapore and Hong Kong;
- 4.1.11 no order or judgement of any court or governmental, statutory or regulatory body having been issued or made prior to Completion, which has the effect of making unlawful or otherwise prohibiting the purchase of the Sale Business and Assets by the Buyer;
- 4.1.12 the FY2004 EBITDA being not less than US\$13,000,000;
- 4.1.13 the Seller shall provide (at the same time when the Seller provides the Estimated Closing Cash Amount to the Buyer) to the Buyer a certificate containing reasonable details issued by a director of the Seller an estimate of the amount of the Working Capital as at the close of business on the day immediately before the Completion Date determined on the basis of and taking into account the line items set out in **schedule 10** and such estimated amount shall not be less than negative US\$2,000,000; and
- 4.1.14 the Minority Dividend having been declared.
- 4.2 The Seller shall make all reasonable efforts to achieve satisfaction of or procure the satisfaction of the Conditions in **clauses 4.1.1(a), 4.1.2, 4.1.3, 4.1.5, 4.1.9 and 4.1.10** as soon as possible.
- 4.3 The Buyer shall make all reasonable efforts to achieve satisfaction of the Condition in **clause 4.1.7** as soon as possible.
- 4.4 The Buyer and the Seller shall make all reasonable efforts to achieve satisfaction of the Conditions in **clauses 4.1.6 and 4.1.8** as soon as possible.
- 4.5 If, at any time, the Seller or the Buyer becomes aware of a fact or circumstance that might prevent a Condition being satisfied, it shall immediately inform the other party of the matter.
- 4.6 At any time on or before 5.00 p.m. on 30 September, the Seller may waive the Condition set out in **clause 4.1.7** by notice to the Buyer on any terms it decides.
- 4.7 At any time on or before 5.00 p.m. on 30 September 2005, the Buyer may waive any of the Conditions set out in **clauses 4.1.1, 4.1.4, 4.1.5, 4.1.9, 4.1.10, 4.1.12 and 4.1.13** by notice to the Seller on any terms it decides.

- 4.8 If any of the Conditions has not been satisfied (or waived pursuant to **clause 4.6** or **4.7**) by 5.00 p.m. on 30 September 2005, this Agreement shall automatically terminate with immediate effect.
- 4.9 Each party's further rights and obligations cease immediately on termination, other than in respect of **clauses 1, 20.3 to 20.6, 22, 23, 24, 25, 26, 27.6, 28, and 29** which shall survive such termination, but termination does not affect a party's accrued rights and obligations at the date of termination and, for the avoidance of doubt, any accrued rights of the parties in connection with any breach by each other of the warranties set out in this Agreement.
5. **COMPLETION**
- 5.1 Completion shall take place at the offices of Baker & McKenzie at 14th Floor, Hutchison House, 10 Harcourt Road, Hong Kong on the Completion Date and shall be deemed to be effective as of 12.01 a.m. (Hong Kong time) on the Completion Date.
- 5.2 At Completion:
- 5.2.1 the Seller and the Buyer shall execute, and the Seller shall procure EPCI HK and EPCI Singapore to execute the Tax Deed;
- 5.2.2 the Seller and the Buyer shall do, and shall respectively procure that each Seller's Group Company and Buyer's Group Company shall do, all those things respectively required of them in **schedule 2**;
- 5.2.3 the Buyer shall pay the Initial Consideration as follows:
- (a) the Buyer shall pay the equivalent of the Debt Amount to the Lenders;
- (b) the Buyer shall pay US\$11,111,263.32 to the Seller; and
- (c) the balance of the Initial Consideration (after deduction of the amount set out in sub-paragraphs (a) and (b) above) shall be satisfied by the issue of the Note by Merix Caymans to the Seller;
- 5.2.4 the Buyer shall pay the Estimated Closing Cash Amount less the amount of the Minority Dividend to the Seller.
- 5.3 The parties are not obliged to complete this Agreement unless:
- 5.3.1 the Buyer and each Buyer's Group Company and the Seller and each Seller's Group Company complies with all their respective obligations under this **clause 5** and **schedule 2**; and
- 5.3.2 the sale and purchase of all of the Businesses, the Business Assets, the HK Shares and the Singapore Shares is completed simultaneously.

5.4 If Completion does not take place immediately on the Completion Date because a party (the “**Defaulting Party**”) fails to comply with any of its obligations under this **clause 5** and **schedule 2** (whether such failure amounts to a repudiatory breach or not) and the other party (the “**Non-Defaulting Party**”) is otherwise in a position to comply with its obligations under this **clause 5** and **schedule 2**, the Non-Defaulting Party may, without prejudice to any other right of or remedy available to the Non-Defaulting Party, by notice to the Defaulting Party:

5.4.1 proceed to Completion to the extent reasonably practicable;

5.4.2 postpone Completion to a date not more than five (5) Business Days after the Completion Date; or

5.4.3 terminate this Agreement.

Each party’s further rights and obligations cease immediately on termination, other than in respect of **clauses 1, 20.3 to 20.6, 22, 23, 24, 25, 26, 27.6, 28, and 29** which shall survive such termination, but termination does not affect a party’s accrued rights and obligations at the date of termination

5.5 If the Non-Defaulting Party postpones Completion to another date in accordance with **clause 5.4.2**, the provisions of this Agreement apply as if that other date is the Completion Date.

5.6 Effective as at Completion:

(a) each member of the Retained Group and the Seller hereby releases each Buyer’s Group Company from any liability in respect of Intra-Group Indebtedness; and

(b) each Buyer’s Group Company hereby releases each member of the Retained Group and the Seller from any liability in respect of Intra-Group Indebtedness.

6. **POST-COMPLETION WORKING CAPITAL ADJUSTMENTS**

6.1 As soon as practicable following Completion, the Buyer and the Seller shall direct the Auditors to undertake a completion audit and to prepare its calculation of the FY2004 Working Capital, the Closing Working Capital and the Actual Closing Cash Amount (the “**Completion Statement**”) and to deliver, in any event no later than forty (40) Business Days after the Completion Date, the Completion Statement to the Seller and the Buyer. The Seller and the Buyer shall each pay one half of the Auditors’ costs in preparing the Completion Statement.

6.2

The FY2004 Working Capital and the Closing Working Capital shall be determined on the basis of and taking into account the line items set out in **schedule 10** and shall be calculated on a basis consistent with the FY2004 Audited Accounts, using the same

accounting principles, policies and practices and, so far as consistent with the foregoing, applicable standards, principles and practices generally accepted in Hong Kong.

- 6.3 If either the Seller or the Buyer does not accept the Auditors' calculation of the FY2004 Working Capital, the Closing Working Capital and/or the Actual Closing Cash Amount, the Seller or the Buyer shall notify the other party of such non-acceptance within ten (10) Business Days of receipt of the Completion Statement. The parties shall thereafter refer the determination of the FY2004 Working Capital, the Closing Working Capital and/or the Actual Closing Cash Amount to an independent firm of chartered accountants agreed by the parties in writing or, failing agreement on the identity of the partner or firm of chartered accountants, appointed, on the application of either party, by the President of the Hong Kong Society of Accountants for the time being.
- 6.4 The Expert shall act on the following basis:
- 6.4.1 the Expert shall act as an independent expert and not as an arbitrator;
 - 6.4.2 the Expert shall be instructed to notify the Seller and the Buyer of his determination within ten (10) Business Days of his appointment;
 - 6.4.3 the Expert's determination shall, in the absence of fraud or manifest error, be final and binding on the parties and shall be deemed to constitute the FY2004 Working Capital, the Closing Working Capital and/or the Actual Closing Cash Amount for all purposes of this Agreement; and
 - 6.4.4 the Seller and the Buyer shall each pay one half of the Expert's costs.
- 6.5 For the purposes of determining the FY2004 Working Capital, the Closing Working Capital and the Actual Closing Cash Amount, the Seller and the Buyer shall give the Expert and each other all information relating to the FY2004 Working Capital, the Closing Working Capital and the Actual Closing Cash Amount which the Expert may reasonably require and the Expert shall be entitled (to the extent he considers appropriate) to base his opinion on such information and on the accounting and other records of the Group, provided always that the Closing Working Capital shall be determined on the basis of and taking into account the line items set out in **schedule 10** and shall be determined on a basis consistent with the FY2004 Audited Accounts, using the same accounting principles, policies and practices and, so far as consistent with the foregoing, applicable standards, principles and practices generally accepted in Hong Kong.
- 6.6 Following the determination of the FY2004 Working Capital and the Closing Working Capital, the adjustment to the Initial Consideration shall be determined and paid as follows:

- 6.6.1 if the Closing Working Capital less the Desay Land Premium Payment is greater than the FY2004 Working Capital, an amount equal to the amount of the difference shall be paid by the Buyer to the Seller within five (5) Business Days; and
- 6.6.2 if the Closing Working Capital less the Desay Land Premium Payment is less than the FY2004 Working Capital, an amount equal to the amount of the difference shall be paid by the Seller to the Buyer within five (5) Business Days. Such amount shall be satisfied in accordance with **clause 6.8**.
- 6.7 Following the determination of the Actual Closing Cash Amount, the Seller or the Buyer (as the case may be) shall pay to the other an amount in cash determined as follows:
- 6.7.1 if the Actual Closing Cash Amount (less any deduction pursuant to **clause 6.8**) is greater than the Estimated Closing Cash Amount, an amount equal to the amount of the difference shall be paid by the Buyer to the Seller within five (5) Business Days. Such amount shall be payable in US\$ in accordance with **clause 1.5**; and
- 6.7.2 if the Actual Closing Cash Amount (less any deduction pursuant to **clause 6.8**) is less than the Estimated Closing Cash Amount, an amount equal to the difference (but in any event not exceeding the Estimated Closing Cash Amount) shall be paid by the Seller to the Buyer within five (5) Business Days. Such amount shall be payable in US\$ in accordance with **clause 1.5**.
- 6.8 If the Seller owes any amount to the Buyer pursuant to **clause 6.6.2**, such amount shall first be deducted from the Actual Closing Cash Amount less US\$2,000,000 for the purposes of the payment to be made under **clause 6.7**. If such amount is not sufficient to pay the full amount due to the Buyer pursuant to **clause 6.6.2** (the remaining unpaid amount being the “**Post-Cash Working Capital Shortfall**”), the Post-Cash Working Capital Shortfall shall be satisfied in accordance with **paragraph 3(c)** of the Note.

7. SETTLEMENT OF PAYMENTS IN ACCORDANCE WITH THE NOTE

- 7.1 Any amounts due from the Seller to the Buyer under this Agreement in relation to the Post-Cash Working Capital Shortfall and Relevant Claims shall be satisfied in accordance with the terms of the Note.
- 7.2 If any payment due from the Seller to the Buyer under this Agreement is satisfied in accordance with the terms of the Note, the Buyer agrees that the Seller’s liability in respect of such payment shall be fully discharged and satisfied to the extent of the amount so reduced.

- 7.3 The Seller shall not be wound up or liquidated until the later of: (i) 1 October 2007; and (ii) the date on which all Relevant Claims have been settled or otherwise determined.
8. **PRO-FORMA ACCOUNTS AND EBITDA EARNOUT CONSIDERATION**
- 8.1 As soon as practicable following 31 December 2005, the Buyer and the Seller shall direct the Auditors to perform agreed upon procedures on the consolidated pro-forma accounts in respect of each Business and each member of the EPCI HK Group and EPCI Singapore Group for the period from 1 January 2005 to 31 December 2005 on the basis as if Completion had taken place on 1 January 2005 (the “**Pro-forma Accounts**”) and to prepare a statement showing their calculation of the Actual Adjusted 2005 EBITDA and the EBITDA Earnout Consideration (the “**Earnout Statement**”) and to deliver by either: (i) seventy-five (75) Business Days after 31 December 2005; or (ii) if the Buyer gives written notice to the Seller within 30 days following 31 December 2005 that it shall take the option referred to in **clause 8.10(b)(1)** in respect of any Relevant Claim arising during the period referred to in **clause 8.10(b)** and such Relevant Claim has not been settled or otherwise determined prior to or on 31 December 2005, 5 Business Days following the date on which such Relevant Claim has been settled or otherwise determined, the Pro-forma Accounts and the Earnout Statement to the Seller and the Buyer. The Buyer shall pay the Auditor’s costs in preparing the Pro-forma Accounts and the Earnout Statement if the EBITDA Earnout Consideration is zero or a negative amount. If the EBITDA Earnout Consideration is a positive amount, the Seller shall be liable for the lesser of: (i) 50% of the Auditor’s costs in preparing the Pro-forma Accounts and the Earnout Statement; and (ii) the EBITDA Earnout Consideration and if such amount is less than 50% of the Auditor’s costs in preparing the Pro-forma Accounts and the Earnout Statement, the Seller shall not be liable to pay any further amount in respect of such costs.
- 8.2 The Buyer shall deliver to the Seller as soon as practicable after 31 December 2005, but in any event by 31 January 2006 unaudited consolidated management accounts in respect of each Business and the business of the EPCI HK Group and the EPCI Singapore Group for the period from 1 January 2005 to 31 December 2005. As soon as practicable following receipt by the Seller of such management accounts, and in any event prior to 14 February 2006, senior representatives of the Buyer and the Seller shall meet with a view to discussing and settling in good faith any Relevant Claims arising from any fact, matter, event or circumstance which occurred during the period from and including 1 January 2005 up to and including 31 December 2005, that have not been settled or otherwise determined prior to 31 December 2005. If the Buyer and the Seller are not able to reach agreement in respect of such Relevant Claims, or the amount claimed in respect of such Relevant Claim, by 31 March 2006, the matter shall be promptly be referred to arbitration by either party in accordance with **clause 29**.

8.3 The Actual Adjusted 2005 EBITDA shall be determined on the basis of and taking into account the principles set out in **Part A of schedule 14** and on a basis consistent with the FY2004 Audited Accounts, using the same accounting principles, policies and practices and, so far as consistent with the foregoing, applicable standards, principles and practices generally accepted in Hong Kong in effect for the year ended 31 December 2004. For the avoidance of doubt, only Relevant Claims that can be recognised as an expense under such accounting principles, policies, practices, applicable standards, principles and practices generally accepted in Hong Kong and only Relevant Claims that have been settled or otherwise determined may be taken into account in the Actual Adjusted 2005 EBITDA amount.

8.4 (a) If the Actual Adjusted 2005 EBITDA is equal to any amount from and including US\$12,000,000 and less than US\$13,200,000, the EBITDA Earnout Consideration shall be determined in accordance with the following formula:

$$\frac{(\text{Actual Adjusted 2005 EBITDA} - 12,000,000) \times 5,000,000}{1,200,000}$$

provided that the EBITDA Earnout Consideration determined in accordance with the formula in this **clause 8.4(a)** shall in no event be (a) a negative amount; or (b) more than US\$5,000,000; or

(b) If the Actual Adjusted 2005 EBITDA is equal to any amount in excess of US\$13,200,000, the EBITDA Earnout Consideration shall be determined in accordance with the following formula:

$$\left(\frac{(\text{Actual Adjusted 2005 EBITDA} - 13,200,000) \times 8,000,000}{900,000} \right) + 5,000,000$$

provided that the EBITDA Earnout Consideration determined in accordance with this **clause 8.4(b)** shall in no event be (a) a negative amount; or (b) more than US\$13,000,000.

8.5 If the Seller notifies the Buyer in writing that it is satisfied with the Pro-forma Accounts and the Earnout Statement, then the Actual Adjusted 2005 EBITDA and the EBITDA Earnout Consideration shall be determined on the basis of the Pro-forma Accounts and the Earnout Statement, as so agreed. If the Seller does not accept the Pro-forma Accounts or the Earnout Statement, the Seller shall notify the Buyer of such non-acceptance within ten (10) Business Days of receipt of the Pro-forma Accounts and the Earnout Statement. The parties shall thereafter refer the preparation of the Pro-forma Accounts and the determination of the Actual Adjusted 2005 EBITDA and/or the EBITDA Earnout Consideration to an independent firm of chartered accountants agreed by the parties in writing or, failing agreement on the identity of the partner or firm of chartered accountants, appointed, on the application of either party, by the President of the Hong Kong Society of Accountants for the time being.

- 8.6 The Expert shall act on the following basis:
- 8.6.1 the Expert shall act as an independent expert and not as an arbitrator;
 - 8.6.2 the Expert shall be instructed to notify the Seller and the Buyer of his determination within ten (10) Business Days of his appointment;
 - 8.6.3 the Expert' s determination shall, in the absence of fraud or manifest error, be final and binding on the parties and shall be deemed to constitute the Pro-forma Accounts and the Actual Adjusted 2005 EBITDA and the EBITDA Earnout Consideration for all purposes of this Agreement; and
 - 8.6.4 the Seller and the Buyer shall each pay one half of the Expert' s costs.
- 8.7 For the purposes of preparing the Pro-forma Accounts and determining the Actual Adjusted 2005 EBITDA and the EBITDA Earnout Consideration, the Seller and the Buyer shall give the Expert and each other all information relating to or relevant for the preparation of the Pro-forma Accounts and the determination of the Actual Adjusted 2005 EBITDA and the EBITDA Earnout Consideration which the Expert may reasonably require and the Expert shall be entitled (to the extent he considers appropriate) to base his opinion on such information, provided always that the Pro-forma Accounts and the Actual Adjusted 2005 EBITDA and the EBITDA Earnout Consideration shall be determined on a basis consistent with the FY2004 Audited Accounts, using the same accounting principles, policies and practices and, so far as consistent with the foregoing, applicable standards, principles and practices generally accepted in Hong Kong and that the Actual Adjusted 2005 EBITDA shall be determined in accordance with the principles set out in **Part A of schedule 14**.
- 8.8 After deduction of any payment to the Auditors pursuant to **clause 8.1**, the Principal shall be increased by an amount equal to the EBITDA Earnout Consideration, or if the EBITDA Earnout Consideration is determined on or after 15 March 2009, the EBITDA Earnout Consideration shall be paid directly to the Seller.
- 8.9 The Buyer agrees that it will use its best endeavours to procure that each member of the Buyer' s Group which has acquired a Business and each member of the EPCI HK Group and EPCI Singapore Group shall be conducted its business at all times during the Relevant Period in accordance with the principles set out in **Part B of schedule 14**.
- 8.10 The Seller and the Buyer agree that:
- (a) in respect of any Relevant Claim arising from any fact, matter, event or circumstance which has occurred prior to and including 31 December 2004, (i) the amount that has been settled or otherwise determined in respect of any Relevant Claim; (ii) the amount of the loss suffered or incurred by the relevant Buyer' s Group Company in respect of which such Relevant Claim has been

settled or otherwise determined; or (iii) the Amount Claimed in respect of any Relevant Claim that has not been settled or otherwise determined during such period, shall not be taken into account in the calculation of the Actual Adjusted 2005 EBITDA but the amount settled or otherwise determined in respect of such Relevant Claim shall be satisfied in accordance with the terms of the Note.

- (b) in respect of any Relevant Claim arising from any fact, matter, event or circumstance which occurs during the period from and including 1 January 2005 up to and including 31 December 2005, the Buyer shall have the option to either: (1) take into account in the calculation of the Actual Adjusted 2005 EBITDA the amount that has been settled or otherwise determined in respect of such Relevant Claim, provided that **schedule 4** shall apply to limit or exclude, as the case may be, the liability determined in respect of such Relevant Claim (which for the avoidance of doubt shall include Relevant Claims made pursuant to the Tax Deed), with the exception of **paragraph 1.1.2** of **schedule 4** which shall not apply; or (2) to apply the amount that has been settled or otherwise determined in respect of such Relevant Claim in accordance with the terms of the Note. For the avoidance of doubt, if the Actual Adjusted 2005 EBITDA is determined to be equal to or less than US\$12,000,000 when the amount referred to in **clause 8.10(b)(1)** is taken into account in the calculation of the Actual Adjusted 2005 EBITDA, the Buyer shall have the right to increase the Principal by an amount equal to the outstanding portion of the amount of such Relevant Claim which has not been settled hereunder, provided that such portion is not less than US\$100,000 and, for the avoidance of doubt, the terms set out in **schedule 4** shall apply to such outstanding portion.

8.11 If the Buyer shall take the option referred to in clause 8.10(b)(1) above, then at the same time when the Buyer provides the Pro-forma Accounts and the Earnout Statement in accordance with **clause 8.1** above, the Buyer shall provide a certificate issued by a director of the Buyer containing reasonable details of the Relevant Claims that have been taken into account in the calculation of the Actual Adjusted 2005 EBITDA.

8.12

As soon as practicable following the end of each full calendar month during the Relevant Period, the Buyer shall deliver to the Seller unaudited consolidated monthly management accounts in respect of each Business and the business of the EPCI HK Group and the EPCI Singapore Group. Such monthly management accounts shall consist of a consolidated profit and loss account, balance sheet and cash flow statement together with the notes thereon (if any) for the Relevant Period. The Buyer shall promptly deliver to the Seller any management updates in respect of the business carried on by the Target Group as a whole as at Completion. During the Relevant Period, the Buyer shall allow the Seller and its representatives reasonable access, upon

notice and during normal business hours, to senior management of the Buyer and senior management of the business previously carried on by the Target Group, for the purpose of clarifying or discussing any matters arising from the consolidated monthly management accounts or the management updates referred to above. The Seller acknowledges that the above information to be provided by the Buyer shall be subject to **clause 22** and will constitute material and non-public information as defined under US securities laws.

9. THE SELLER' S WARRANTIES AND PRE-COMPLETION CONDUCT

- 9.1 The Seller acknowledges that, in entering into this Agreement the Buyer has relied upon the several representations, the Warranties and the undertakings contained in this Agreement. The Seller warrants and represents to the Buyer that each of the Warranties set out in **schedule 3** is true and accurate and not misleading in all material respects. The Warranties shall be deemed to be repeated at Completion and any expressed reference to the date of this Agreement shall be replaced by the Completion Date. In relation to any warranty that relates to the FY2003 Audited Accounts and/or the FY2004 Audited Accounts, the Seller shall only give such warranty at the date of satisfaction of Condition 4.1.1(a) and upon the Completion Date. Save as provided in **paragraph 6** on page 2 of the Disclosure Letter, the Warranties are qualified by the facts and circumstances accurately and fairly disclosed in the Disclosure Letter.
- 9.2 The Seller' s liability for Relevant Claims (which for the avoidance of doubt shall include Relevant Claims made pursuant to the Tax Deed) shall be limited or excluded, as the case may be, as set out in **schedule 4**.
- 9.3 Between the execution of this Agreement and Completion:
- 9.3.1 the Seller shall use its reasonable endeavours to ensure that each Target Group Company complies with its respective obligations under **schedule 5**;
- 9.3.2 the Seller shall cause each of the Target Group Companies to allow the Buyer and its agents and representatives reasonable access during normal business hours upon notice to the senior management of the Seller and the accountants and legal advisers of the Seller, for the purpose of enabling the smooth transition of the control of EPCI HK and EPCI Singapore and each Business to the Buyer on Completion, it being acknowledged that any such access shall be solely for the purpose of obtaining information and the Buyer shall not have any rights to influence the policies or business of any Seller' s Group Company prior to Completion. However, the parties acknowledge that any member of the EPCI HK Group and the EPCI Singapore Group may agree to enter into a supply agreement with the Buyer on an arm' s length basis during the period between execution and Completion of this Agreement;

- 9.3.3 the Seller shall deliver to the Buyer the FY2005 Management Accounts for the preceding calendar month as soon as practicable and in any event within four (4) weeks from the end of each calendar month. The Buyer hereby acknowledges receipt of the FY2005 Management Accounts for January 2005 and February 2005; and
- 9.3.4 with respect to the land use right for the manufacturing plant located in Dongguan and operated by Eastern Pacific Circuits (Dongguan) Limited, the Seller shall (at its own cost) use its reasonable endeavours to procure that the records of 國家土地管理局 (Land Administrative Authority) are updated to change the name in respect of which such land use right is recorded in the records of 國家土地管理局 (Land Administrative Authority) from “Universal Enterprise (Dongguan) Limited” (東莞聯業電子有限公司) to Eastern Pacific Circuits (Dongguan) Limited” (東莞瑞花電路有限公司).
- 9.4 Each of the Warranties shall be construed as a separate warranty and shall not be otherwise limited or restricted by reference to or inference from the terms of any other Warranty or any other term of this Agreement.
- 9.5 The Seller undertakes to the Buyer that, except in the case of wilful misconduct, fraud or fraudulent misrepresentation, the Seller and each Seller’s Group Company:
- 9.5.1 has no rights against; and
- 9.5.2 may not make any claim against,
- any employee, director, agent, officer, shareholder or adviser of the Target Group on whom it may have relied before agreeing to any term of, or entering into, this Agreement or any other agreement or document referred to herein.
10. **THE BUYER’S REMEDIES**
- 10.1 Each of the Seller and the Buyer undertakes that if before Completion it shall become aware of any fact or circumstance which gives or may give rise to a Relevant Claim, it shall promptly notify the other in writing stating in reasonable detail the nature of such fact or circumstance which gives or may give rise to a Relevant Claim. The Buyer acknowledges that it has conducted due diligence from October 2004 to the end of February 2005 in respect of the Sale Business and Assets and the assets of each member of the EPCI HK Group and the EPCI Singapore Group and during this period has been given access to a data room.
- 10.2 If, at any time before Completion, the Buyer becomes aware of any fact or circumstance which gives or may give rise to a Relevant Claim referred to in

clause 10.1 and such matter is reasonably unlikely to give rise to a Material Adverse Change, the Buyer shall proceed to Completion and shall waive its rights to claim for damages or exercise any other right, power or remedy under this Agreement or as provided by law in respect of such Relevant Claim.

- 10.3 If, at any time before Completion, the Buyer becomes aware of a fact or circumstance which gives rise to a Relevant Claim and such matter is reasonably likely to give rise to a Material Adverse Change, the Buyer may by notice to the Seller served promptly after the Buyer becomes aware of the relevant matter elect to proceed to Completion or to terminate this Agreement.
- 10.4 If the Buyer terminates this Agreement pursuant to **clause 10.3**, or if this Agreement is terminated pursuant to **clause 5.4.3** each party's further rights and obligations cease immediately on termination other than in respect of **clauses 1, 20.3 to 20.6, 22, 23, 24, 25, 26, 27.6, 28, and 29** which shall survive such termination, but termination does not affect a party's accrued rights and obligations at the date of termination.
- 10.5 If the Buyer elects to proceed to Completion pursuant to **clause 10.3**, the Buyer shall not be entitled to claim damages or exercise any other right, power or remedy under this Agreement or as otherwise provided by law in respect of the matter giving rise to the election, other than any such rights in respect of fraud.
- 10.6 If, following Completion, the Buyer becomes aware of a fact or circumstance which gives rise to a Relevant Claim, the Buyer shall not be entitled to rescind this Agreement or treat this Agreement as terminated but shall only be entitled to claim damages in respect of such matter and, accordingly, the Buyer waives all and any rights of rescission it may have in respect of any such matter (howsoever arising or deemed to arise), other than any such rights in respect of fraud.

11. **THE BUYER'S WARRANTIES AND UNDERTAKINGS**

11.1 The Buyer warrants to the Seller that:

- 11.1.1 it is a corporation duly organized and validly existing under the laws of the State of Oregon and it has all requisite corporate power and authority to own, operate and lease its properties and assets and to carry on its business as now conducted and as proposed to be conducted;
- 11.1.2 each Buyer's Group Company to or by whom any of the HK Shares, Singapore Shares or Business Assets are being transferred or acquired (each an "**Acquiring Buyer Company**") will, upon its incorporation or establishment, be a corporation duly organized and validly existing under the laws of its respective place of incorporation or establishment and has all requisite corporate power and authority to own, operate and lease its properties and assets and to carry on its business as now conducted and as proposed to be conducted;

- 11.1.3 it has the right, power and authority, and has taken all corporate action on the part of the Buyer and its respective officers, directors and shareholders necessary for the authorisation, execution, delivery and performance of this Agreement and the Other Documents to which it is a party and the performance of its obligations under this Agreement and the Other Documents to which it is a party has been taken or will be taken as of or prior to Completion. This Agreement has been, and each of the Other Documents to which the Buyer is a party, will have been at Completion, duly executed and delivered by the Buyer and, as the case may be, and this Agreement is, and each of the Other Documents to which the Buyer is a party will be, (assuming due authorization, execution and delivery by the Seller) at Completion, a legal, valid and binding obligation of and enforceable against the Buyer in accordance with its terms;
- 11.1.4 its obligations under this Agreement and the Other Documents to which it is expressed to be a party (the “**Buyer’ s Completion Documents**”) are, or when the relevant Buyer’ s Completion Document is executed will be, enforceable in accordance with their respective terms and this Agreement and the Buyer’ s Completion Documents when executed will constitute valid and binding obligations of the Buyer;
- 11.1.5 the execution, delivery and performance of this Agreement and the Buyer’ s Completion Documents by it will not (a) constitute a violation (with or without the giving of notice or lapse of time, or both) of any law applicable to it or any Acquiring Buyer Company, (b) require any consent, approval or authorization of any person, (c) conflict with or result in a breach of, or constitute a default under, any provision of its or any Acquiring Buyer Company’ s articles of incorporation;
- 11.1.6 except for CIBC World Markets Corp., no broker, finder or investment banker is entitled to any brokerage, finder’ s or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Buyer; and
- 11.1.7 there is no claim, action, suit, arbitration, criminal or civil investigation or proceeding pending or involving or, to its knowledge, threatened against it with respect to this Agreement or the Buyer’ s Completion Documents, or in connection with the transactions contemplated hereby or thereby, and there is no valid basis for any such claim, action, suit, proceeding or investigation.

11.2 The Buyer undertakes to the Seller that except in the case of wilful misconduct, fraud or fraudulent misrepresentation, the Buyer and each Buyer' s Group Company:

11.2.1 has no rights against; and

11.2.2 may not make any claim against,

any employee, director, agent, officer, shareholder or adviser of the Seller and any Seller Group Company (including for these purposes each member of the EPCI HK Group and the EPCI Singapore Group) on whom it may have relied before agreeing to any term of, or entering into, this Agreement or any other agreement or document referred to herein.

11.3 The Buyer undertakes to the Seller to indemnify and hold harmless the Seller against any and all Costs (which shall include premiums and legal fees) incurred or suffered by the Seller as a result of or in connection with the assignment of the Hong Kong Lease and the assignment of any leasehold interests of the Business Sellers in connection with the transactions contemplated pursuant to this Agreement and the Other Documents and shall reimburse any Seller' s Group Company for any expenses or premiums paid by any Seller' s Group Company in relation thereto.

12. **RELEASE OF SECURITY**

Within 14 days after Completion, the Seller shall (at its own cost) make, and shall procure that each Business Seller shall make, such filings with the Registrar of Companies of Hong Kong and each such other Government Authority as may be necessary to effect and/or to record the discharge and release of the Security other than the Retained Security.

13. **TRANSFER OF BUSINESSES (PROTECTION OF CREDITORS) ORDINANCE**

As soon as practicable after the execution of this Agreement, the parties shall procure that a notice of transfer relating to the sale and purchase of the Business of Eastern Pacific Circuits (HK) Limited is published in accordance with the provisions of the Transfer of Businesses (Protection of Creditors) Ordinance. Any such notice shall be in the agreed form and shall be given without prejudice to the rights and obligations of the parties, as against each other, under this Agreement. The parties agree to waive compliance with the Bulk Sales Act (Ontario).

14. **RESPONSIBILITY FOR LIABILITIES**

14.1 The Buyer hereby undertakes to the Seller (for itself and on behalf of each of the Seller' s Group Companies) that after Completion:

- 14.1.1 it shall duly and properly perform, assume and pay and discharge when due any Assumed Liabilities and any and all Costs incurred or suffered by the Seller and/or any of the Seller' s Group Companies as a result of or relating to any Assumed Liabilities; and
- 14.1.2 it shall indemnify and hold harmless the Seller and each of the Seller' s Group Companies against any Assumed Liabilities and any and all Costs incurred or suffered by the Seller and/or any of the Seller' s Group Companies as a result of or relating to any Assumed Liabilities.
- 14.2 The Seller hereby undertakes to the Buyer (for itself and on behalf of each of the Buyer' s Group Companies) that:
- 14.2.1 it shall duly and properly perform, assume and pay and discharge when due any Excluded Liabilities and any and all Costs incurred or suffered by the Buyer and/or any of the Buyer' s Group Companies as a result of or relating to any Excluded Liabilities; and
- 14.2.2 it shall indemnify and hold harmless the Buyer and each of the Buyer' s Group Companies against any Excluded Liabilities and any and all Costs incurred or suffered by the Buyer and/or any of the Buyer' s Group Companies as a result of or relating to any Excluded Liabilities.
- 14.3 The Buyer undertakes with the Seller that, at any time and from time to time on or after Completion, it will at the cost of the Buyer execute and deliver all such further documents of assumption and acknowledgement and/or take such other action as the Seller may reasonably request in order to effect the release and discharge in full of the relevant Seller' s Group Company from any Assumed Liabilities or the assumption by a Buyer' s Group Company as the primary obligor in respect of any Assumed Liabilities in substitution for the relevant Seller' s Group Company.
- 14.4 The Seller undertakes with the Buyer that, at any time and from time to time on or after Completion, it will at the reasonable cost of the Seller execute and deliver all such further documents of assumption and acknowledgement and/or take such other action as the Buyer may reasonably request in order to effect the release and discharge in full of the relevant Buyer' s Group Company from any Excluded Liabilities or the assumption by a Seller' s Group Company as the primary obligor in respect of any Excluded Liabilities in substitution for the relevant Buyer' s Group Company.
- 14.5 The Buyer (for itself and on behalf of each of the Buyer' s Group Companies) shall be responsible for and shall indemnify the Seller (for itself and on behalf of each of the Seller' s Group Companies) against any claims from customers for repair or replacement duly made before, on or after Completion under any warranties, representations or guarantees given expressly or by implication of law by any Business Seller in respect of any product sold or service supplied to the relevant customers by

the relevant Business Seller prior to Completion in the ordinary course of the Business of the relevant Business Seller (save to the extent that such claims relate to the Excluded Liabilities). If any such claim is threatened or brought against the Seller or any of the Seller' s Group Companies, the Seller shall not, and shall procure that the relevant Seller' s Group Company shall not, compromise or settle the same but shall notify the Buyer or the relevant Buyer' s Group Company in writing thereof and, subject to being indemnified to its reasonable satisfaction, the Seller shall, and shall procure that the relevant Seller' s Group Company shall, at the request of the Buyer take such action in respect thereof (including lending its name to any legal action) as the Buyer may reasonably require.

15. **ACCOUNTS RECEIVABLE**

15.1 The Buyer shall from the Completion Date be entitled to the benefits of the Accounts Receivable.

15.2 The Seller shall procure that the relevant Business Seller shall use all reasonable endeavours with the co-operation of the Buyer or the relevant Buyer' s Group Company to procure the assignment by Completion or as soon as practicable thereafter.

15.3 Insofar as the Accounts Receivable cannot effectively be assigned to the Buyer except by the agreement or consent to the assignment from the third parties concerned:

15.3.1 until the Accounts Receivable is assigned the Seller shall procure that the relevant Business Seller shall hold any payment which it receives in respect of the Accounts Receivable in trust for the Buyer absolutely; and

15.3.2 until the Accounts Receivable is assigned the Seller shall procure that the relevant Business Seller shall (so far as it lawfully may) give all reasonable assistance to the Buyer (at the Buyer' s request and expense) to enable the Buyer to enforce its rights under Accounts Receivable provided that no member of the Seller' s Group shall be obliged to make any payment (in money or money' s worth) under this unless it has first been paid the amount concerned by the Buyer.

16. **THIRD PARTY CONSENTS**

16.1 Subject to the remaining provisions of this **clause 16**, the Buyer shall (so far as it lawfully may) from Completion carry out, perform and discharge all the obligations and liabilities created by or arising under the Business Contracts and undertakes to the Seller (for itself and on behalf of each of the Seller' s Group Companies) to indemnify the Seller and each of the Seller' s Group Companies against all Costs suffered or incurred by the Seller or any of the Seller' s Group Companies as a result of any failure on its part to carry out, perform and discharge those obligations and liabilities (save to the extent that such Costs relate to the Excluded Liabilities).

- 16.2 The Seller shall use all reasonable endeavours with the co-operation of the Buyer to procure by Completion or as soon as practicable thereafter a novation or Consent and to provide or procure the provision of any information reasonably requested in connection with the related discussions by the person concerned.
- 16.3 If the benefit or burden of any of the Business Contracts and Business Claims cannot be, or are not permitted to be, assigned or transferred to the Buyer, except by an agreement of novation or without obtaining a consent, approval, waiver or the like to the assignment or transfer from a third party (a “**Consent**”) unless or until the relevant Business Contract or Business Claim or, as applicable, the relevant element of the benefit and burden of it (the “**Relevant Element**”) is novated or assigned or any necessary Consent is obtained in respect of it:
- (a) the transfer of that Business Contract or Business Claim or, as the case may be, of the Relevant Element, shall not take effect and the Seller or the relevant Business Seller shall from Completion hold it on trust for the Buyer (save to the extent that any of the rights under it are Excluded Assets) and as soon as reasonably practicable after receipt of the same shall account for and pay or deliver to the Buyer any moneys, goods and other benefits which it receives to the extent that they relate to such Business Contract or Business Claim or the Relevant Element, as the case may be (save in each case to the extent they comprise, or represent the proceeds from, an Excluded Asset);
 - (b) in the case of any Business Contract, the Buyer shall (so far as it lawfully may) (if subcontracting or agency is permissible under the relevant Business Contract), as the Seller’ s or the relevant Business Seller’ s sub-contractor or agent, perform all or, as the case may be, the Relevant Element of the obligations of the Seller or of the relevant Business Seller under the Business Contract to be discharged after Completion (save to the extent that such obligations relate to the Excluded Assets) and the Buyer undertakes to the Seller to indemnify the Seller and each relevant Business Seller against all Costs suffered or incurred as a result of any failure on the part of the Buyer to perform those obligations (save to the extent that such Costs relate to the Excluded Liabilities);
 - (c) the Seller shall (so far as it lawfully may) from Completion give all reasonable assistance to the Buyer (at the Buyer’ s request and expense) to enable the Buyer to enforce its rights under the Business Contract or Business Claim or, as the case may be, the Relevant Element of it, provided that no member of the Seller’ s Group shall be obliged to make any payment (in money or money’ s worth) under this paragraph (c) unless it has first been paid the amount concerned by the Buyer, and the Buyer shall not agree to any amendment or waiver of those rights under the Business Contract or Business Claim without prior written approval of the Seller or of the relevant member of the Seller’ s Group (which shall not be unreasonably withheld); and

- (d) in the case of any Business Contract that contains a licence in favour of a Business Seller to use any Intellectual Property Rights, the Seller shall, or shall procure that the relevant Business Seller shall, grant such sub-licence under the Business Contract to the Buyer as may be reasonably required for use in the Business and as is within the power and authority of the Seller of the relevant Business Seller to grant.
- 16.4 Without limiting the other provisions of this **clause 16**, if any necessary novation or Consent is not obtained on or before 1 August 2006 or is refused and the procedure set out in this **clause 16** does not enable the full burden of any Business Contract or Business Claim to be assumed by the Buyer or another Buyer' s Group Company after the Completion Date, the Seller and the relevant Business Seller shall be entitled to terminate the relevant Business Contract or Business Claim and the obligations of the parties under this Agreement in relation to such Business Contract or Business Claim shall cease forthwith.
- 16.5 Where any consent or agreement of any third party is required to the transfer of any of the Business Assets (other than in relation to the transfer of any Business Claim, Business Contract, the Hong Kong Lease or the Canadian Property) and such consent or agreement has not been obtained at or before Completion, the transfer of the relevant Business Asset shall not take effect, notwithstanding Completion, until that consent or agreement has been obtained and the Seller shall use its reasonable endeavours, with the co-operation of the Buyer, after Completion, to obtain it as soon as possible.
- 16.6 Where the benefit and burden of a Business Contract can be assigned or transferred to the Buyer but, under the terms of the Business Contract, the Buyer and/or the relevant Business Seller are obliged to notify the other party to that contract of the assignment or transfer, each of the Buyer and the Seller shall use their respective reasonable endeavours to comply with such notification requirements.
17. **TRANSFERRING EMPLOYEES AND PENSIONS**
- 17.1 **Transferring Employees - Canada**
- 17.1.1 The Buyer shall, or shall procure that the relevant Buyer' s Group Company shall, no later than two weeks before the Completion Date, make offers of employment to all of the Transferring Employees - Canada, whether active or inactive, on terms and conditions of employment including benefit plans, substantially the same as those then enjoyed with Eastern Pacific Circuits (Canada) Limited. Those Transferring Employees - Canada who are offered and accept employment with the Buyer or the relevant Buyer' s Group

Company shall become employees of the Buyer or the relevant Buyer' s Group Company immediately following Completion. The Seller shall use, and shall procure that Eastern Pacific Circuits (Canada) Limited shall use, its reasonable efforts to ensure that all Transferring Employees - Canada accept such offers of employment.

- 17.1.2 The Buyer agrees that the Buyer or the relevant Buyer' s Group Company shall maintain such terms and conditions of employment and such benefit plans for at least one (1) year from and after the Completion Date. The Buyer agrees that the Buyer or the relevant Buyer' s Group Company shall credit each Transferring Employee - Canada' s service with the Seller as service with the Buyer or the relevant Buyer' s Group Company for all purposes and shall honour all accrued payroll obligations in respect of the Transferring Employees - Canada, including but not limited to, vacation, holiday and bonus payments accrued prior to the Completion Date.
- 17.1.3 Transferring Employees - Canada who are absent from work as of the Completion Date due to statutory pregnancy, parental or emergency leave, or short term absence due to illness or injury (excluding those absent and either entitled to or receiving short term disability benefits under a company sponsored disability plan), or other short-term absence, whether paid or unpaid, including vacation, holiday, jury duty or other scheduled time off, shall be deemed to be active employees who shall be offered employment by the Buyer or the relevant Buyer' s Group Company effective as of the Completion Date in accordance with this **clause 17.1**. In the case of any Transferring Employees - Canada who are not actively at work as of the Completion Date due either to short or long-term disability in respect of which the employee is entitled to or receiving benefits under a company sponsored disability plan, or absence due to a work-related injury in respect of which the employee is entitled to or is receiving workers compensation or workplace safety and insurance benefits, such inactive employees shall be offered employment by the Buyer or the relevant Buyer' s Group Company as of the Completion Date, with such employment to commence when such employee gives notice of his or her intention to return to work following the Completion Date.
- 17.1.4 The Transferring Employees - Canada shall cease to participate in the group registered retirement savings plan of Eastern Pacific Circuits (Canada) Limited (the "**Seller' s Group RRSP**") effective as of the Completion Date. Effective as of the Completion Date, the Buyer or the relevant Buyer' s Group Company shall offer or extend to the Transferring Employees - Canada a pension or retirement savings plan with benefit or contribution levels and investment options that are substantially similar to or no less favourable than those

provided under the Seller' s Group RRSP on the Completion Date, for which the Transferring Employees - Canada shall be immediately eligible for membership.

17.2 Transferring Employees - HK

- 17.2.1 The Buyer agrees that the Transferring Employees - HK shall be offered employment with a Buyer' s Group Company with effect from the Completion Date on terms no less favourable than those then enjoyed with Eastern Pacific Circuits (HK) Limited.
- 17.2.2 Not less than 7 days before Completion (or such longer period as may be required under law or under their contracts of employment), the Seller and the Buyer shall procure, respectively, that Eastern Pacific Circuits (HK) Limited and the relevant Buyer' s Group Company will jointly inform each of the Transferring Employees - HK in writing of the sale of the relevant Business hereby agreed and will issue a joint letter in the agreed form to each Transferring Employee - HK giving notice of termination of his employment with Eastern Pacific Circuits (HK) Limited and containing an offer by the relevant Buyer' s Group Company of re-engagement of such employee on terms no less favourable than his then existing terms of employment. The joint letter shall contain a term which requires the Transferring Employees- HK to transfer their benefits accrued under the Seller MPF Scheme to the Buyer MPF Scheme upon cessation of participation in the Seller MPF Scheme.
- 17.2.3 The Seller shall use, and shall procure that Eastern Pacific Circuits (HK) Limited shall use, all reasonable endeavours to persuade the Transferring Employees - HK to accept employment with the relevant Buyer' s Group Company on such terms as aforesaid.
- 17.2.4 The Buyer shall enrol, and shall procure that the relevant Buyer' s Group Company shall enrol, as soon as practicable after Completion, the Transferring Employees - HK who accept the offer by the relevant Buyer' s Group Company (the **“Accepting Employees -HK”**) as members of the Buyer MPF Scheme with effect from the Completion Date and provide the Accepting Employees - HK with retirement benefits which shall be no less favourable than those provided under the Seller MPF Scheme. In respect of the participation of each Accepting Employee- HK in the Buyer MPF Scheme, the Buyer agrees that the years of service of the Accepting Employee- HK under the Buyer MPF Scheme shall include the years of service of such Accepting Employee- HK with Eastern Pacific Circuits (HK) Limited and any years of service currently recognised by Eastern Pacific Circuits (HK) Limited, and the Buyer shall procure the trustee of the Buyer MPF Scheme to give effect to the same.

17.2.5 In respect of the Accepting Employees- HK who transfer all their benefits accrued under the Seller MPF Scheme to the Buyer MPF Scheme, the Seller shall procure that Eastern Pacific Circuits (HK) Limited shall transfer to the Buyer MPF Scheme any unvested portion of voluntary contributions made by or Eastern Pacific Circuits (HK) Limited. The relevant Buyer' s Group Company which re-engages such Accepting Employees- HK undertakes that such unvested portion of voluntary contributions shall continue to vest in the Accepting Employees- HK under the Buyer MPF Scheme, taking into account the years of service of such Accepting Employees- HK with Eastern Pacific Circuits (HK) Limited.

17.3 **Transferring Employees - Singapore**

17.3.1 Transfer of EA Transferring Employees - Singapore. The employment of EA Transferring Employees - Singapore shall be the subject of Singapore Statutory Transfers. By virtue of the Singapore Statutory Transfers, all of Eastern Pacific Circuits (Singapore) Pte Ltd' s rights, duties, powers, liabilities and obligations still in force immediately before Completion in respect of any contract of employment with the each such Transferring Employee - Singapore shall be transferred to the relevant Buyer' s Group Company. The Seller and the Buyer shall procure, respectively, that Eastern Pacific Circuits (Singapore) Pte Ltd and the relevant Buyer' s Group Company shall each comply with its obligations under the Singapore Employment Act with respect to the Singapore Statutory Transfers. Not later than one week before Completion, the Seller shall procure that Eastern Pacific Circuits (Singapore) Pte Ltd delivers to all EA Transferring Employees - Singapore a letter informing them of their change in employment and all other matters required pursuant to the Singapore Statutory Transfer in the agreed form.

17.3.2 Transfer of Non-EA Transferring Employees - Singapore. The Buyer shall procure that the relevant Buyer' s Group Company shall offer, terms and conditions of employment to each of the Non-EA Transferring Employees - Singapore. Such employment offer shall be on the following terms and conditions:-

- (a) the terms and conditions of the employment by the relevant Buyer' s Group Company of each Non-EA Transferring Employee - Singapore shall be no less favourable to those of his present employment with the Eastern Pacific Circuits (Singapore) Pte Ltd; and
- (b) such employment with the relevant Buyer' s Group Company shall commence on Completion.

The Seller shall use its reasonable endeavours, and shall procure that Eastern Pacific Circuits (Singapore) Pte Ltd shall use its reasonable endeavours, to persuade the Non-EA Transferring Employees - Singapore to accept employment with the relevant Buyer' s Group Company. The Seller shall procure that Eastern Pacific Circuits (Singapore) Pte Ltd shall terminate the employment of the Non-EA Transferring Employees - Singapore who have accepted the employment offer in writing in accordance with the provisions of their respective contracts of employment, which termination shall be contemporaneous with Completion. Not later than one week before Completion, the Seller shall procure that Eastern Pacific Circuits (Singapore) Pte Ltd shall deliver to all Non-EA Transferring Employees - Singapore a letter informing them of their change in employment pursuant to this Agreement in the agreed form.

17.4 **Transferring Employees - UK**

17.4.1 The Seller and the Buyer acknowledge and agree that the sale of the Business of Eastern Pacific Circuits (UK) Limited by Eastern Pacific Circuits (UK) Limited to the Buyer or relevant Buyer' s Group Company is subject to the application of the UK Transfer Regulations and that accordingly:

- (a) the employment of any of the Transferring Employees - UK who are employed in such Business immediately prior to Completion shall not be terminated for a reason arising from or connected in any way with this Agreement; and
- (b) by virtue of the UK Transfer Regulations all of Eastern Pacific Circuits (UK) Limited' s rights, powers, duties and liabilities under or in connection with any contract of employment (except for any provisions or liabilities arising under or in connection with any occupational pension scheme and excluded from transfer under the UK Transfer Regulations) with the Transferring Employees - UK still in force immediately before Completion shall be transferred to the Buyer or relevant Buyer' s Group Company on Completion; and
- (c) the Seller shall procure that Eastern Pacific Circuits (UK) Limited shall comply with its obligations under the UK Transfer Regulations.

17.4.2 The Buyer or the relevant Buyer' s Group Company shall meet all its respective legal obligations under the UK Transfer Regulations regarding pension benefits on and from Completion and, in particular, the Buyer or the relevant Buyer' s Group Company shall ensure that each of the Transferring Employees - UK who is entitled to pension contributions under his or her contract of employment before Completion shall continue to be entitled to the same pension contributions from his or her new employer on and from Completion.

- 17.4.3 If, as a result of the UK Transfer Regulations, any contract of employment of any employee of Eastern Pacific Circuits (UK) Limited (other than those of the Transferring Employees - UK) shall transfer to the Buyer or relevant Buyer' s Group Company on Completion, then:
- (a) the Buyer or relevant Buyer' s Group Company may, upon becoming aware of the application of the UK Transfer Regulations, immediately terminate it; and
 - (b) the Seller shall indemnify the Buyer or relevant Buyer' s Group Company against all Liabilities and Costs which it or they may suffer or incur in relation to such contract of employment or its termination.

17.5 Transferring Employees - US

- 17.5.1 The Buyer agrees that it will offer employment to the Transferring Employees - US on terms and conditions no less favourable than those then presently enjoyed with Eastern Pacific Circuits (USA) Corporation, such employment to commence on the Completion Date.
- 17.5.2 On or before the Completion Date, Eastern Pacific Circuits (USA) Corporation shall deliver to each of the Transferring Employees - US its letter of termination of employment whereby the employment of the Transferring Employees - US with Eastern Pacific Circuits (USA) Corporation will terminate on the close of business on the day immediately preceding the Completion Date and, subject to any rights or options they may have under applicable law and in consideration of the offer of employment from the Buyer and the comparable severance, vacation and other benefits, the Transferring Employees - US will agree to waive any severance benefits under Eastern Pacific Circuits (USA) Corporation' s policy, plan or practice or any agreement and will agree that all unused vacation time then accrued by the Transferring Employees - US while employed by Eastern Pacific Circuits (USA) Corporation under its current vacation policy, plan or practice or any agreement will be transferred to and assumed by the Buyer in full.
- 17.5.3 The Buyer will agree to assume all accrued vacation liability for the Transferring Employees - US and to provide credit for the period of service with Eastern Pacific Circuits (USA) Corporation under any severance policy maintained in respect of its current US employees for the Transferring Employees - US.

17.5.4 With respect to the one Transferring Employee - US who is participating in the 401(k) plan adopted by Eastern Pacific Circuits (USA) Corporation, on the day immediately prior to the Completion Date, Eastern Pacific Circuits (USA) Corporation shall terminate the 401(k) plan and all benefits currently held therein for the Transferring Employee - US will be distributed to the Transferring Employee - US, or rolled over to a personal individual retirement account or to the Buyer' s comparable 401(k) plan as directed by the Transferring Employee - US. The Buyer agrees to accept any such direct rollover to its comparable 401(k) plan, subject to a finding by such plan' s fiduciary that such direct rollover does not violate applicable law.

17.6 **Transferring Employees - General**

The Buyer shall for itself and for and on behalf of each member of the Buyer' s Group indemnify the Seller (for itself and on behalf of each member of the Seller' s Group) from and against:

- 17.6.1 any Costs which arise in connection with the employment of the Transferring Employees or which arise directly or indirectly from any act or omission by any member of the Buyer' s Group in relation to any of the Transferring Employees on or after the Completion Date;
- 17.6.2 any Costs arising directly or indirectly in connection with statements, representations, expressions of opinion by, or discussions with, any member of the Buyer' s Group about plans, proposals or intentions in relation to the Transferring Employees;
- 17.6.3 any Costs arising from any claim brought against any Seller' s Group Company by any of the Transferring Employees in connection with the transfer of the Transferring Employees to any member of the Buyer' s Group; and
- 17.6.4 any Costs (including severance costs) arising directly or indirectly in connection with the termination of the employment of any of the Transferring Employees.

18. **INSURANCE**

18.1 The Buyer shall pay all additional premiums relating to the Business Insurance Policies arising as a result of the transactions contemplated by this Agreement.

18.2 Other than in relation to the Business Insurance Policies, the Seller shall be entitled to arrange for all insurance provided by the Seller' s Group in relation to any Business, the Business Assets, the EPCI HK Group and the EPCI Singapore Group (whether under policies maintained with third party insurers or other members of the Seller' s Group) to cease upon Completion. The Seller shall give the Buyer not less than 14 days written

notice of its intention to terminate any insurance policy relating to any Business and Business Assets, and shall provide the Buyer with a copy of the relevant insurance policy.

19. POST-COMPLETION UNDERTAKINGS

19.1 The Seller shall, and shall procure that each Business Seller shall, as soon as practicable upon receipt, send to the Buyer:

19.1.1 all monies or other items belonging to the Buyer or a Buyer's Group Company which should have properly been paid or provided to the Buyer or a Buyer's Group Company in relation to the Business; and

19.1.2 all notices, correspondence, orders or enquiries to the extent they relate to the Business,

which are received by the Seller or the relevant Business Seller after Completion.

19.2 The Buyer shall, and shall procure that each member of the Buyer's Group shall, as soon as practicable upon receipt, send to the Seller all monies or other items belonging to the Seller or any Business Seller which should have properly been paid or provided to the Seller or any Business Seller in relation to the Business in relation to the period up to and including Completion, and which are received by the Buyer or any member of the Buyer's Group after Completion.

19.3 To the extent legally permitted, the Seller will at the request of the Buyer allow Buyer's Group Company to rely on the Seller's Approvals pending issuance of new Approvals to the relevant member of the Buyer's Group.

20. TAX MATTERS

20.1 The Buyer shall bear and pay, and shall reimburse any Seller's Group Company for any amount borne or paid by it, all stamp duty, sales tax, goods and services tax, value added tax and other transfer taxes, capital gains taxes (which would not have arisen but for the transfer of the Sale Business and Assets hereunder), land transfer tax and/or fees (which would not have arisen but for the transfer of the Sale Business and Assets hereunder) and other such Taxes (including interest and penalties) arising pursuant to this Agreement. The Buyer shall be responsible for preparing and submitting all tax filings with the relevant tax authority in respect of such taxes to the extent they are chargeable against any Buyer Group Company. At the request of the Buyer and at the Buyer's expense, the Seller shall provide, and shall procure that each of the Business Sellers shall provide, reasonable assistance to the Buyer to comply with this **clause 20.1**. The Buyer shall indemnify the Seller (on an after tax basis and for itself and on behalf of each Seller's Group Company) any Costs (including interest and penalties) arising directly or indirectly in connection with such tax filings or as a result of the Buyer's failure to comply with this **clause 20.1**.

- 20.2 The Seller shall bear and pay any profits tax liability in respect of any balancing charge or deemed trading receipt that may arise at any time in relation to the tax depreciation allowances or deductions that have been claimed by Eastern Pacific Circuits Property Limited and Eastern Pacific Circuits (HK) Limited prior to the Completion Date in relation to the assets of Eastern Pacific Circuits Property Limited and Eastern Pacific Circuits (HK) Limited (the “**Depreciation Claw-back**”) up to a maximum amount of US\$2,000,000. If the amount of the Depreciation Claw-back exceeds US\$2,000,000, the Buyer shall bear and pay, and shall reimburse any Seller’s Group Company any amount borne or paid by any Seller’s Group Company in respect of the excess above US\$2,000,000. In the event that there are tax losses available to the Business Sellers to offset any Depreciation Claw-back which has arisen as a result of the transfer of the Sale Business and Assets, the Seller shall use such tax losses to reduce such liability.
- 20.3 All sums payable under this Agreement shall be paid free and clear of all deductions or withholdings whatsoever save only as provided in this Agreement or as may be required by law.
- 20.4 If any deduction or withholding is required by law from any payment in respect of a Buyer Obligation or a Seller Obligation, then, except in relation to interest, the person making the payment shall be obliged to pay the other person such additional sum as will, after such deduction or withholding has been made, leave the other party with the same amount as it would have been entitled to receive in the absence of any such requirement to make a deduction or withholding.
- 20.5 If any tax authority brings into charge to tax any sum paid by a person to any other person in respect of a Buyer Obligation or a Seller Obligation, then, except in relation to interest, the amount so payable shall be grossed up by such amount as will ensure that, after payment of the tax so charged, there will be left a sum equal to the amount that would otherwise have been payable had the sum in question not been so charged to tax.
- 20.6 If any person receiving payment (the “**Recipient**”) in respect of a Buyer Obligation or a Seller Obligation receives a refund of or relief from any tax or other monies payable by it or similar benefit by reason of any deduction or withholding for or on account of tax or by reason of any tax charged in respect of which there is a gross up under **clause 20.4** or **clause 20.5**, then it shall reimburse to the other relevant persons such part of such additional payments paid to it pursuant to **clause 20.4** or **clause 20.5** by such other persons as the Recipient, acting reasonably, certifies to the other persons will leave it (after such reimbursement) in no better or worse position than it would have been in if no deduction or withholding had been required or no tax charge had arisen or (where applicable) if the matter giving rise to the payment had not arisen.

- 20.7 In determining the amount payable in respect of any Buyer Obligation or Seller Obligation, account shall be taken of any relief or other benefit available to the Recipient or any of its holding companies or subsidiaries in respect of the matter giving rise to the payment, insofar as not taken into account pursuant to **clause 20.6**.
- 20.8 For the avoidance of doubt, all sums payable by or on behalf of the Buyer to the Seller under this Agreement or any of the Other Documents are exclusive of any applicable taxes referred to in **clause 20.1** or **clause 20.2**.
- 20.9 Each party shall (at the expense of the requesting party) provide the other with such assistance as may reasonably be required in connection with the preparation of any Tax Return or to otherwise carry out the provisions of this **clause 20**.

21. **RECORDS**

- 21.1 The Buyer shall, and shall procure that each member of the Buyer' s Group shall, provide to the Seller and each Business Seller as the Seller or relevant Business Seller may reasonably require such access to the Business Records held by it after Completion to the extent that such Business Records relate exclusively to the Business and relate to the period up to Completion (the "**Available Records**") and shall make available necessary Transferring Employees (provided that such employees are still employed by the Buyer' s Group at the time of the request made by the Seller or the relevant Business Seller) (during normal business hours and at a time acceptable to the Buyer or any relevant member of the Buyer' s Group) solely for the purpose of enabling the Seller (at its own cost) and each Business Seller (at its own cost) to wind down the operations of each Business Seller, to wind-up or liquidate each Business Seller and in order comply with the obligations of the Seller and each Business Seller under this Agreement.
- 21.2 For the period from the Completion Date to the earlier of: (i) the date on which the last member of the Seller' s Group is wound up or liquidated; and (ii) the date falling four (4) years following the Completion Date, the Buyer shall not, and shall procure that each Buyer' s Group Company shall not, dispose of or destroy, any of the Available Records or the Business Records without first giving the Seller at least two months' notice of its intention to do so and giving the Seller the opportunity to remove and retain any of them (at the Seller' s expense).

22. **CONFIDENTIAL INFORMATION**

- 22.1 Subject to **clauses 22.2** and **23**, the Seller undertakes to the Buyer, and the Buyer undertakes to the Seller, that it shall treat, and shall procure that each of its affiliates and their employees, officers, agents, advisers and representative shall treat, as confidential and not disclose or use any information received or obtained which relates to:

-
- 22.1.1 the other party and its affiliates;
- 22.1.2 the provisions or the subject matter of this Agreement or any document referred to herein and any claim or potential claim thereunder;
- 22.1.3 in the event that Completion does not take place, any information held or received by the Buyer' s Group in relation to the Seller' s Group;
- 22.1.4 in the event that Completion does not take place, any information held or received by the Seller' s Group in relation to the Buyer' s Group; or
- 22.1.5 the negotiations relating to this Agreement or any documents referred to herein.
- 22.2 **Clause 22.1** does not apply to disclosure or use of any such information as is referred to in **clause 22.1**:
- 22.2.1 which is required to be disclosed by law, by a rule of a listing authority or stock exchange (or equivalent thereof) to which any party or its affiliate is subject or submits or by a Government Authority or other authority with relevant powers to which any party or its affiliate is subject or submits, whether or not the requirement has the force of law;
- 22.2.2 to an adviser for the purposes of advising in connection with the transactions contemplated by this Agreement provided that such disclosure is essential for these purposes and is on the basis that **clause 22.1** applies to the disclosure by the adviser;
- 22.2.3 to a director, officer or employee of the Buyer or of the Seller or of the Seller' s affiliate whose function requires him to have the relevant confidential information;
- 22.2.4 to the extent that the information has been made public by, or with the consent of, the other party; or
- 22.2.5 to any of the Seller' s shareholders or to any partner, shareholder, investor, affiliate, investment committee or investment adviser of any of the Seller' s shareholders provided that such disclosure is on the basis that **clause 22.1** applies to disclosure to such parties.
- 22.3 The restrictions contained in this **clause 22** shall continue to apply after the termination of this Agreement without limit in time.
- 22.4 Nothing in this Agreement shall prevent the Buyer from disclosing any information whatsoever about the Business or any Buyer' s Group Company after Completion.

23. **ANNOUNCEMENTS**

23.1 Subject to **clause 23.2**, neither party may, before or after Completion, make or send a public announcement, communication or circular concerning the transactions referred to in this Agreement unless it has first obtained the other party' s written consent, which may not be unreasonably withheld or delayed.

23.2 **Clause 23.1** does not apply to a public announcement, communication or circular:

23.2.1 made or sent by the Buyer after Completion to a customer, client or supplier of the Target Group informing it of the Buyer' s purchase of each Business, the HK Shares and/or the Singapore Shares. provided that the Buyer may not make any such announcement, communication or circular containing any reference to the shareholders of the Seller, without first consulting the Seller or such shareholders;

23.2.2 required by law, by a rule of a listing authority or stock exchange (or equivalent thereof) to which any party or its affiliate is subject or submits or by a Government Authority or other authority with relevant powers to which any party or its affiliate is subject or submits, whether or not the requirement has the force of law;

23.2.3 made or sent by the Seller to its shareholders and to the partners, shareholders, investors, affiliates, investment committees and investment advisers of the Seller' s shareholders;

23.2.4 made or sent by the Seller, its advisers or the advisers of the Seller' s shareholders after Completion in relation to customary tombstone and league table announcements; or

23.2.5 where such public announcement, communication or circular contains only information which has already been made public.

23.3 The restrictions contained in this **clause 23** shall continue to apply after the termination of this Agreement without limit in time.

23.4 Nothing in this Agreement shall prevent the Buyer from disclosing any information whatsoever about the Business or any Buyer' s Group Company after Completion.

24. **ASSIGNMENT**

A party shall not assign, transfer or in any other way alienate any of its rights under this Agreement whether in whole or in part without the prior written consent of the other party.

25. **COSTS**

- 25.1 Except where this Agreement provides otherwise, each party shall pay its own costs relating to the negotiation, preparation, execution and performance by it of this Agreement and of each document referred to in it.
- 25.2 The Buyer undertakes to the Seller to indemnify and hold harmless the Seller against any and all Costs incurred or suffered by the Seller in connection with the costs and expenses payable by any party (including legal fees) relating to any legal or other professional advisory services in relation to the credit facility of US\$30,000,000 being extended to the Buyer pursuant to the credit agreement between Merix Caymans with Standard Chartered Bank (Hong Kong) Limited as Facility Agent and Standard Chartered Bank (Hong Kong) Limited as Security Agent other than the Costs incurred by the Seller' s legal or other professional advisers.

26. **ENTIRE AGREEMENT**

In this **clause 26**, the following definition applies:

“**Representation**” means representation, statement, assurance, covenant, undertaking, indemnity, guarantee or commitment (whether contractual or otherwise).

- 26.1 Subject to the provisions of **clause 26.2**, this Agreement and each document referred to in it constitute the entire agreement and supersede any previous agreements between the parties relating to the subject matter of this Agreement.
- 26.2 The parties are not liable to each other for a Representation that is not set out in this Agreement. Each of the parties agree that its only remedy or remedies for an untrue statement (whether through negligence or otherwise) contained in this Agreement are those set out in this Agreement.
- 26.3 The parties agree that none of them or any adviser to the relevant party shall have any liability to each other for a Representation that is not set out in this Agreement. Each party or an adviser to the relevant party may enforce the terms of this **clause 26.3** and **clause 26.4** as if they were a party hereto.
- 26.4 The Buyer and the Seller agrees that no party shall have any remedy or bring any action against the other in relation to (a) any previous agreements between them relating to the subject matter of this Agreement or (b) any Representation other than the Warranties or otherwise as set out in this Agreement.
- 26.5 Nothing in this **clause 26** shall have the effect of limiting or restricting any liability arising as a result of any fraud.

27. **GENERAL**

- 27.1 A variation of this Agreement is only valid if it is in writing and signed by or on behalf of each party.
- 27.2 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not impair or constitute a waiver of the right or remedy or an impairment of or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or by law prevents further exercise of the right or remedy or, save as referred to in **clauses 10 and 26**, the exercise of another right or remedy.
- 27.3 Except to the extent that they have been performed and except where this Agreement provides otherwise, the obligations contained in this Agreement remain in force after Completion.
- 27.4 If a party fails to pay a sum due from it under this Agreement on the due date of payment in accordance with the provisions of this Agreement, that party shall pay interest on the overdue sum from the due date of payment until the date on which its obligation to pay the sum is discharged at 3 per cent. above the base rate from time to time of Standard Chartered Bank (accrued daily and compounded monthly).
- 27.5 Save as otherwise provided herein, any payment to be made by any party under this Agreement shall be made in full without any set-off, restriction, condition or deduction for or on account of any counterclaim.
- 27.6 If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable under the laws of any jurisdiction, that shall not affect:
- 27.6.1 the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- 27.6.2 the legality, validity or enforceability under the Law of any other jurisdiction of that or another provision of this Agreement.
- 27.7 This Agreement may be executed in any number of counterparts, each of which when executed and delivered is an original and all of which together evidence the same agreement. The parties agree that the execution of the Agreement may be effected by the exchange of facsimile signature pages, with the exchange of the executed originals as soon as reasonably possible thereafter.
- 27.8 Each of the Seller and the Buyer agrees, and the Seller agrees to procure EPC Cayman, EPCL and the Business Sellers and the Buyer agrees that it shall procure any Buyer' s Group Company to execute (or procure the execution of) such further documents as may be required by Law or as may be necessary to implement and give effect to this Agreement notwithstanding Completion. In the absence of specific agreement to the contrary, each party shall be responsible for its own costs and expenses incurred in giving effect to the provisions of **clause 27.8**.

28. **NOTICES**

28.1 A notice or other communication under or in connection with this Agreement (a “**Notice**”) shall be:

28.1.1 in writing;

28.1.2 in the English language; and

28.1.3 delivered personally or sent by mail, (if overseas) air mail, or by fax to the party due to receive the Notice to the address set out in **clause 28.3** or to another address, person or fax number specified by that party by not less than 5 Business Day’ s written notice to the other party received before the Notice was despatched.

28.2 Unless there is evidence that it was received earlier, a Notice is deemed given if:

28.2.1 delivered personally, when left at the address referred to in **clause 28.1.3**;

28.2.2 sent by internationally recognised next-day courier, two Business Days after delivery to the courier;

28.2.3 sent by air mail, five Business Days after posting it; and

28.2.4 sent by fax, when confirmation of its transmission has been recorded by the sender’ s fax machine.

28.3 The address referred to in **clause 28.1.3** is:

Name of party _____	Address _____	Fax No. _____	Marked for the attention of _____
The Seller	Suite 2804, 28th Floor One Exchange Square 8 Connaught Place Central Hong Kong	852 3102 8321	Ng Lak Chuan
	with a copy to: Baker & McKenzie 1401 Hutchison House 10 Harcourt Road Central Hong Kong	852 2845 0476	Milton Cheng

Name of party _____	Address _____	Fax No. _____	Marked for the attention of _____
The Buyer	1521 Poplar Lane P.O. Box 3000, F4-234 Forest Grove OR 97116 United States of America	1 503 357 1504	Mark R. Hollinger
	with a copy to: Perkins Coie LLP 1120 NW Couch Street Tenth Floor Portland, OR 97209 United States of America	1 503 727 2222	Patrick J. Simpson
	Jones Day 31st Floor, Edinburgh Tower The Landmark 15 Queen' s Road Central Hong Kong	852 2868 5871	Barbara Mok

29. **GOVERNING LAW ARBITRATION AND SERVICE OF PROCESS**

29.1 This Agreement is governed by the laws of Hong Kong.

29.2 Any disputes arising under, out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in Hong Kong in accordance with the Domestic Arbitration Rules (the “**Rules**”) of the Hong Kong International Arbitration Centre (the “**HKIAC**”) for the time being in force, which Rules are deemed to be incorporated by reference in this **clause 29.2**.

29.3 The arbitral tribunal constituted in accordance with the Rules shall consist of one arbitrator to be appointed by the Chairman of the HKIAC, unless otherwise agreed by the parties.

29.4 The language of the arbitration shall be English.

29.5 The applicable law of the arbitration shall be Hong Kong law.

29.6 The foregoing shall not preclude any party from seeking interim relief or orders for interim preservation in any Court of competent jurisdiction. Any such application to Court shall not demonstrate an intention to act inconsistently in any way with the agreement to settle disputes by arbitration set out in this **clause 29**.

- 29.7 The Buyer hereby irrevocably appoints Jones Day of 31st Floor, Edinburgh Tower, The Landmark, 15 Queen' s Road Central, Hong Kong as its agent to receive and acknowledge on its behalf service of any writ, summons, order, judgment or other notice of legal process in Hong Kong and any writ, summons, order, judgement or other notice of legal process in Hong Kong shall be sufficiently served on the Buyer if delivered to such agent at its address for the time being in Hong Kong. The Buyer undertakes not to revoke the authority of this agent. If for any reason the agent named above (or its successor) no longer serves as agent of the Buyer for this purpose, the Seller shall be entitled to appoint on behalf of the Buyer at the expense of the Buyer, and the Seller shall notify the Buyer thereof.
- 29.8 The Seller hereby irrevocably appoints Baker & McKenzie of 1401 Hutchison House, 10 Harcourt Road Central, Hong Kong as its agent to receive and acknowledge on its behalf service of any writ, summons, order, judgment or other notice of legal process in Hong Kong and any writ, summons, order, judgement or other notice of legal process in Hong Kong shall be sufficiently served on the Seller if delivered to such agent at its address for the time being in Hong Kong. The Seller undertakes not to revoke the authority of this agent. If for any reason the agent named above (or its successor) no longer serves as agent of the Seller for this purpose, the Buyer shall be entitled to appoint on behalf of the Seller at the expense of the Seller, and the Buyer shall notify the Seller thereof.

SCHEDULE 1

PART 1 - BUSINESS SELLERS

	Name of Business Seller _____	Place of incorporation _____
1.	Eastern Pacific Circuits (HK) Limited	Hong Kong
2.	Eastern Pacific Circuits (USA) Corporation	California
3.	Eastern Pacific Circuits (Canada) Limited	Ontario, Canada
4.	Eastern Pacific Circuits Property Limited	Hong Kong
5.	Eastern Pacific Circuits (UK) Limited	England
6.	Eastern Pacific Circuits (Singapore) Pte Ltd	Singapore

PART 2 - CATEGORIES OF BUSINESS ASSETS

1. the Business Properties;
2. the Business Plant and Equipment;
3. the Stock;
4. the Accounts Receivable;
5. all benefits, rights and entitlements under all Business Contracts;
6. the Business Claims;
7. the Business Records;
8. the Business IP;
9. the Business Goodwill;
10. the Business Motor Vehicles;
11. all monetary deposits paid to third parties for the provision of utility services to the Business Sellers in connection with the Business;
and
12. prepayments of expenses to third parties paid by any Business Seller in connection with the Business.

PART 3 - EXCLUDED ASSETS

1. all of the issued shares in the capital of each of the Business Sellers;
2. all of the issued shares in the capital of Universal Enterprise Limited;
3. the business and assets (if any) of Universal Enterprise Limited;
4. all of the issued shares in the capital of Lomber Investment Limited;
5. the business and assets (if any) of Lomber Investment Limited;
6. the Cash;
7. any rights of the Seller or any Seller' s Group Company under this Agreement or the Other Documents;
8. the benefit of all insurance policies other than the Business Insurance Policies or insurance claims arising after Completion other than insurance Claims arising in relation to the Business Insurance Policies;
9. the statutory registers and minute books, share certificate books and common seal of each of the Business Sellers;
10. the Approvals which are incapable of transfer, without prejudice to the provisions of **clause 19.3**;
11. the License for Eastern Pacific Circuits (UK) Ltd to occupy Unit 15, Greenlands Business Centre, Studley Road, Redditch, B98 7HD, England,;
12. the Agreement of Lease entered into as of August 15, 2000 by and between Shelvin Plaza Associates (as Owner) and Wong' s Circuits Corporation (as Tenant) regarding the premises located at 600 Old Country Road, Suite 226, Garden City, New York 11530 for a term of five (5) years ending September 30, 2005; and
13. the Sublease Agreement dated May 1, 2003 by and between Eastern Pacific Circuits (USA) Corporation (as Overtenant) and PB Consulting, LLC (as Undertenant) regarding the premises located at 600 Old Country Road, Suite 226, Garden City, New York 11530 for a term of two (2) years and five (5) months ending September 30, 2005.

PART 4 - ASSUMED LIABILITIES

All Liabilities relating to the Business Assets arising in the ordinary course of business.

PART 5 - EXCLUDED LIABILITIES

1. the Debt Amount;
2. any Liabilities arising solely in relation to the Security in respect of the period prior to the Completion Date;
3. any Liabilities arising solely in relation to the Excluded Assets;
4. any Liabilities and Costs relating to the restructuring of the Borrowings and the Security by the Seller or a Group Company prior to the Completion Date;
5. any obligations of the Seller or any Seller' s Group Company under this Agreement or the Other Documents; and
6. the Business Tax, except for those taxes to be borne or paid by the Buyer as expressly provided for in **clause 20.1**.

PART 6A - BUSINESS PROPERTIES

1. the Canadian Property;
2. the property that is the subject of the Hong Kong Lease; and
3. Eastern Pacific Circuits (Singapore) Pte Ltd' s leasehold interest in the property situated at #03-07, United House, 20 Kramat Lane, Singapore 228773.

PART 6B - PROPERTY

1. the Business Properties;
2. Eastern Pacific Circuits (Dongguan) Ltd' s rights, title and interest in the property situated at Hing Yu Industrial District, Tongxia Town, Dongguan City, Guangdong Province, PRC. **中國 廣東省 東莞市 塘廈鎮宏業工業區, formerly known as Wen Keng Section, Tangxia Town 塘廈鎮 蚊坑地段;**
3. Lomber (Huizhou) Ltd' s leasehold interest in the property situated at Gu Tang Au Industrial District, Huizhou City Guangdong Province, PRC **中國 廣東省 惠州市 古塘坳工業區;**
4. Eastern Pacific Circuits (Huiyang) Ltd' s rights, title and interest in the property situated at 23 Yin Ling Rd., The 3rd Ind. District, Chen Jiang Town, Huizhou City, Guangdong

5. Eastern Pacific Circuits (Huizhou) Ltd' s leasehold interest in the property situated at Gu Tang Au Industrial District, Huizhou City Guangdong Province, PRC 中國廣東省惠州市古塘坳工業區; and
6. Eastern Pacific Circuits (Huizhou) Ltd' s rights, title and interest in the property situated at 中國廣東省惠州市橋東東湖三街89號110棟141房.

PART 7 - TRANSFERRING EMPLOYEES

7.1 Transferring Employees - Canada

1. Stephen Leung Sales Engineer
2. W.F. Yip Technical Manager
3. Emil Wong. Technician
4. Mary Chu Sales Manager
5. Vivien Cheung Customer Service & account manager

7.2 Transferring Employees - HK

1. Kung Yun King, Kings VP Manufacturing
2. Tsang Ki Lo, Joseph VP Finance
3. Leung Wai Chiu Manager
4. Cheng Chau Yuet Amah
5. Yiu Yuk Yin Janice Personnel & Training Officer
6. Chan Mei Kin Messenger
7. Cheung Shui Hung Amah

8. Liu Wai Man Manager
9. Yeung Kam Yuen Sr. Engineer
10. Choy Kam Lun Manager
11. Lam Kai Yick Rudolf Asst. Finance Manager
12. Lui Chi Keung PMC Manager
13. Ip Chi Po Sr. Buyer
14. Nip Kit Chi Supervisor
15. Chan Wai Yim Sr. Clerk
16. Yau Wah Keung Superintendent
17. Ng Lai Kuen Pauline Sr. Clerk
18. Wong Lee Po Store Keeper
19. Yeung Chi Ming Store Keeper

20.	Wong Ching Lau	Operator
21.	Cheng Hoi Ngan	Operator
22.	Lee King Yung	Engineer
23.	Huang Tien Fu	Technician
24.	So Chun Sun	Technician
25.	Ng Wa Po	Technician
26.	Yip Ting Kwan	Sr. Engineer
27.	Wong Shek Ming	Technician
28.	Wong Luen Kwan	Sr. Technician
29.	Ip Kim Hung	Technician (CNC)
30.	Lai Chong Fai	Technician (CNC)
31.	Li Fung Chun	Operator
32.	Wu Mau Wah	Technician (Other)
33.	Fung Kin Hung Coley	Technician
34.	Lau Tze Wan	Superintendent (Electric)
35.	Wong Kam Tim	Sr. Technician (Mech.)
36.	Siu Kwun Ming	Sr. Technician (Other)

37.	Luk Ying Chau	Technician (Mech.)
38.	Lai Kam Wong	Leader (Electric)
39.	Lee Chun Kwong	Sr. Technician (Mech.)
40.	Ng Fai Kwok	Technician (Mech.)
41.	Lau Chun Kong	Superintendent
42.	Chuang Mao Nan	Superintendent
43.	Poon Yau Keung	Supervisor
44.	Kwok Lam Lam	Supervisor
45.	Tsang Shiu On	Asst. Supervisor
46.	Lau Hoi Hung	Superintendent
47.	Tsoi Wai Chung	Supervisor
48.	Kwok Wai Wai	Forelady
49.	Fan Oi Kuen	Operator
50.	Sham Yin Lam	Forelady
51.	Ng Ah Fo	Operator
52.	Kwong Sun Mui	Operator
53.	Chong Chik Fung	Operator

54.	Cheung Sau Yam	Operator
55.	So Kan Chi	Operator
56.	Kwok Wan Lai	Operator
57.	Fong Tjoi Peng	Operator
58.	Sze Lai Na	Operator
59.	Kam Yan Lai	Operator
60.	Ho Bing Tak	Foreman
61.	Wong Sau Kam	Operator
62.	Choi Kwok Man	Foreman
63.	Hui Tsz Fan	Operator
64.	Lau Wai Nam	Operator
65.	Cheng Hau Wan	Operator
66.	Poon Chun	Operator
67.	Lau Wing Kwong	Operator
68.	Chan So Ling	Operator
69.	Ng Yuet Shuen	Operator

70.	Liu Chin So	Operator
71.	Yip Yin Yu	Operator
72.	Pak Chi Man	Operator
73.	Siu San Wan	Operator
74.	Hung Mei Yung	Operator
75.	Huang Chin Fa	Operator
76.	Suen Tak Tsang	Foreman
77.	Chan King Fa	Operator
78.	Wong Siu Fai	Setter
79.	Yick Chuk Ping	Operator
80.	Lam King Cheong	Foreman
81.	Lui Cheung Pui	Operator
82.	Cheng Ngan Yuk	Technician
83.	Wong Sau Ha	Operator
84.	Poon Kam Chung Leon	Technician
85.	Chu Po Wing	Operator
86.	Li Cho Leung	Operator
87.	Lui Chun Tin	Operator
88.	Ng Yat Wa	Operator
89.	Ma Chun Pan	Operator
90.	Ng Cheung Wing	Operator
91.	Yiu Hang Wa	Operator
92.	Wai Kit Fong	Operator
93.	Wong Ah Sing	Operator
94.	Wong San Ping	Foreman
95.	Lam Kwan On	Operator
96.	Tsang Kim Wai	Operator
97.	Chan Kam Yung	Forelady
98.	Cheung Shui Wing	Operator
99.	Li Pik Kuen	Operator
100.	Chong Nung Choi	Operator
101.	Tse Wai Mui	Operator
102.	Ng Shuk Nui	Operator
103.	Hui Wah Yin	Foreman
104.	Koon Kwok Chung	Operator
105.	Li A E	Operator
106.	Lau Chiu Ping	Operator
107.	Ma Wai Lan	Operator

108. Ng Sau Lung	Operator
109. Wong Wing Mei	Operator
110. Chan Mei Lei	Operator
111. Yu Yuet Chi	Operator
112. Lam Lai Na	Operator
113. Ng Chau Ha	Forelady
114. Yung Sau Wan	Operator
115. Lam Mei Lin	Operator
116. Chan Yee Muk	Setter
117. Lee Yan Fau	Foreman
118. Tam Chung Hing	Operator
119. Wong Wan Leung	Operator

120. Cheung Ming Kang	Foreman
121. Ng Kai Fu	Operator
122. Cheng Lai Tuen	Forelady
123. Wong Yuet Lai	Operator
124. Hung Lai Yuk	Operator
125. Chan Yee Hong	Operator
126. Chan Kwai Fa	Operator
127. Ng Tan Fong	Operator
128. Wong Shuk Ming	Operator
129. Wong Wo Kwai	Setter
130. Tam Yuk Lan	Operator
131. Li Wai Shun	Operator
132. San Ka Ngan	Foreman
133. Lam Choi Ha	Operator
134. Cheung Siu Sang	Operator
135. Lai So Lin	Operator
136. Lam Lai Ying	Operator
137. Chan Kam Tak	Foreman
138. Tong Kin Shun	Foreman
139. Chu Yuen Tak	Operator
140. Kam Lai Sheung	Operator
141. Chan Shun Chi	Operator
142. Lau Shing Kwai	Foreman
143. Chan So Man	Operator
144. Kwok Mei Chun	Operator
145. Cheung Lin Hing	Operator
146. Suen Kwok Fong	Operator
147. Tang Kam Kuen	Operator
148. Chan Lai Heung	Technician
149. Chan Man Bun	Sr. Technician
150. Lau Chi Fai	Sr. Technician
151. Lam Lai Yung	Inspector
152. Lau Wai Yip	Inspector
153. To Hok Fung	Inspector
154. Lee Kam Wan	Technician
155. Wong Yuet Lai	Technician
156. Kung Shun Chun	Inspector
157. Sze Yim Hung	Inspector
158. Yip Lai Ming	Inspector
159. Li Pak Mei	Inspector
160. Cheong Wai Ha	Inspector
161. Lam Ching Yin	Inspector
162. Kwok Sau Chu	Inspector
163. Cheung Kin Lam	Inspector
164. Cheung Kwai Chun	Superintendent
165. Chu Sau Man	Forelady
166. Cheung Sau Mei	Inspector
167. Heung Doi Hung	Inspector
168. Wong Wai Kin	Inspector
169. Chan Siu Ying	Forelady

170. Wong Lai Chun	Inspector
171. Wong Kam Fa	Operator
172. Tsoi Suet Loi	Inspector
173. Kam Po Wai	Sr. Technician
174. Li Cheung Loi	Operator
175. Poon Pek Lan	Operator
176. Yeung Ngan Choi	Forelady
177. Lam Yuet Mui	Operator
178. Teng Lie Suan	Operator
179. Lam Wai Chun	Operator
180. Wong Wing Lim	Operator
181. Chan Kwok Lung	Operator
182. Chan Lin Chu	Operator
183. Louie Yuet Ying	Operator
184. Lee Hoi Yin	Operator
185. Cheng Miu Wa	Operator
186. Lam Chung Lai	Operator
187. Lam Ming Dei	Foreman
188. Wong Mei Kam	Operator
189. Tung Oi Mui	Operator
190. Tsang Shing Wah	Operator
191. Wan Sau Yuk	Operator
192. Tsoi Ying Ki	Manager
193. Yip Yuk Lin	Technician
194. To Mui Ying	Operator
195. Wong Yuk Wa	Operator
196. Li Lai King	Inspector
197. Chan Kam Lam	Foreman
198. Cheung Yat Sun	Technician
199. Chong Muk Chun	Technician
200. Chan Hoi Bun	Operator
201. Yau Mei Yan	Forelady
202. Hung Kan Chuen	Driver
203. Shum Yin Yuk	Inspector
204. Kui Shiu Po	Group Leader
205. Chan Yu Chik	Operator
206. Chan Lai Fong	Operator
207. Chin Pui Man	Engineer
208. O Mei Nog	Operator
209. Wong Ping Fai	Engineer
210. Fu Siu Chu	Operator
211. Yip So Chu	Operator
212. Ma Dik Yi	Operator
213. Wong Sik Ping	Inspector
214. Su Chin Mu	Operator
215. Li Mei Na	Operator
216. O Mei Na	Operator
217. Chan Kwan	Operator
218. So Sai Muk	Operator
219. Limbu Shyam Kumar	Security Supervisor

220. Lam Lai Ngo	Amah
221. Li Siu Yu	Operator
222. Wong Yin Ming	Amah
223. Wong Yuk Chun	Operator
224. Ting Chun Tao	Operator
225. Chan Fuk Sui	Operator
226. Ng Mei Mei Shirley	Executive Assistant
227. Tse Mui Ying	Operator
228. Lau So Mei	Operator
229. Wong Yan Chun	Operator
230. Lam Shuk Chu	Operator
231. Cheng Yau Ling	Operator
232. Lin Chih Ming	Operator
233. Lam Ho Man	Operator
234. Wong Hau Yu	Operator
235. Yuen Fat Lan	Operator
236. Liu Wing Keung	Technician (Electric)
237. Wong Luen Chu	Operator
238. Chow Tim Hei	Technician (Electric)
239. Cheu Sau Wan	Operator
240. Lam Hau Chun	Amah
241. Lau Ying Chat	Supervisor
242. Chow Kam Tong	Engineer
243. Lau Wang Wa	Manager
244. Huang Tien Ming	Foreman
245. Fung Wai Yung	Operator
246. Lau Choi Ling	Operator
247. Hui Fai Wong	Operator
248. Wong Yu Kai	Cook
249. Poon Ching Kwok	Security Guard
250. Tong Yin Chu	Operator
251. Chiu Wai Kwong	Asst. Technician
252. Tsang Siu Bond	Asst. Technician
253. Wong Sum Ying	Operator
254. Huang Hang Shan	Operator
255. Ho Siu Mui	Operator
256. Wan Shun Lit	Technician (Mech.)
257. Fung Pui Ling	Technician
258. Lam Lai Lai	Operator
259. Tsui Mou Fat	Leader
260. Chiu Fung Gau	Operator
261. Fong Chiu Lai	Operator
262. Lam Tit Yeung	Technician (Electric)
263. Lee Lap Wai	Manufacturing Manager
264. Tam Kam Fong	Operator
265. Ng Hung Fai	Operator
266. Tsoi Shuk Hing	Operator
267. Kok Wai Hang	Operator
268. Ku Siu Ping	Operator
269. Lai So Ching	Operator

270. Wong Miu Wong	Operator
271. Ko Mui Kwai	Operator
272. Chan Chun Tai	Operator
273. Ho Wai Kwong	Operator
274. Ng Kam Lung	Technician
275. Wong Lai King	Operator
276. Yam Shing Wing	Technician (Other)
277. Cheng Kai Ching	Operator
278. Wong Hiu Hong	Operator
279. Lai Cheung Mui	Operator
280. Ip Suet Ho	Technician
281. Wong Tuen Chung	Technician (Other)
282. Leung Lai Ling	Operator
283. Ho Man Wai	Systems Analyst
284. Lau Mai Yue Ai	Operator
285. Chan Sun Chi	Operator
286. Kong Kam Fung	Operator
287. Cheung Chung Ming	Operator
288. Wong On Chi	Operator
289. To Sau Wan	Operator
290. Ng Yuen Mei	Operator
291. Chu Kim Miu	Operator
292. Leung Ngai Lung	Section Head
293. Wong Ngan Suet	Inspector
294. Wong Sum	Security Guard
295. Wong Wai Fui	Operator
296. Kwok Hiu Wang	Senior Engineer
297. Pun Shui Ping	Operator
298. Choi Chi Ming Andy	Operator
299. Yau Lin Fung	Technician (Mech.)
300. Law Man Ching	Operator
301. Wong Chi Keung	Asst. Cook
302. Mak Yin Chun	Operator
303. Wong Mei Nga	Operator
304. So Chi Lung	Senior Planner
305. Poon Siu Ling	Operator
306. Tsang Hon Wing	Operator
307. Wong Siu Fai	Operator
308. Li Chun Fung	Operator
309. Wong Siu Ho	Technician
310. Wong So Chun	Operator
311. Wong Yin Yuk	Operator
312. Wong Sau Fong	Operator
313. Chan Tsan Sum	Technician
314. Yuen Chung Kee Roy	Manager
315. Cheung Yiu Ko	Network Administrator
316. Liu Tze King Stefan	Account Manager
317. Tse Mau Fung	Account Manager
318. Chan Tak Kuen	Assistant Manager
319. Chan Sze Chung	Operator

320. Leung Yu Yan	Technician
321. Cheung Wai Nog	Operator
322. Tsui Man Ying	Operator
323. Chan Wai Man	Technician
324. Cheng Chun Yung	Asst. Technician
325. Poon Kwok Fai	Security Guard
326. Tang Pak Yin	Technician
327. Leung Kwai Ying	Operator
328. Hung Hiu Chun	Operator
329. Chan Mong Sing	Operator
330. Wong Kwai Fun	Inspector
331. Shih Man Koi	Foreman
332. Cheng Kong Fan	Driver
333. Kwan Kwok Ming	Technician (Mech.)
334. Chan Chung Lam	Operator
335. Li Hon Ming, Danny	Sales Engineer
336. Leung Ping Choi	Technician
337. Chan Chun Chun	Asst. Engineer
338. Ma Chun Wa	Operator
339. Lai Lai Chu	Operator
340. Lam So Fun	Inspector
341. Ho Yuen Hung	Operator
342. Lam Chi Fan	Operator
343. Xu Hong Qi	Operator
344. Lui Mei Sui	Operator
345. Sze King Shan	Operator
346. Lam Chun Yuen	Operator
347. Yeung Man Tan	Project Engineer
348. Sze Chui Ching	Operator
349. Liu Xiaohua	Inspector
350. Lau Oi Ying	Inspector
351. Wong Yuet Kwan	Operator
352. Tsoi Pan Lin	Operator
353. Ting Shan Shan	Operator
354. Chan Tuen Ling	Operator
355. Leung Yuen Ki	Operator
356. Tong Yun Kong	General Manager
357. Yau Wan Mui	Operator
358. Cheng Wai Tat	Business Development Officer
359. Tsoi Yuen Mei	Operator
360. Lam Chi Kin	Operator
361. Wong Lun Cheung	Operator
362. Chan Chiu Man	Operator
363. Tong Yu Man	Superintendent
364. Lin Meng Jung	Technical Director
365. Li Yiu To	Foreman
366. Lam Hung Chiu	Operator
367. Mui Chi Wang	Group Leader
368. Ko Chi Yin	Asst. Training Supervisor
369. Chui Chung Hau	Operator

370. Lam King Sum	Asst. General Manager
371. Cheng Chung Man	Operator
372. Yuen Kin Yan Alan	Finance Manager
373. Tang Siu Hung	Engineer
374. Yu Oi Ying	Operator
375. Kei Kwan Wah	Operator
376. Lai Kai Pang	Asst. Manager
377. Cheung Yat Shun	Engineer
378. Tsang Suet Ping Novem	Senior Finance Manager
379. Chan Ling Ling	Operator
380. Chan Sze Yuen	Operator
381. Chan Ka Wai	Clerk
382. Wong Suet Ping	Operator
383. Yau Wai Heung	Operator
384. Wu Ha Fong	Operator
385. Yeung Pik	Operator
386. Lau Mei Kam	Operator
387. Au Choi Ling Sylvia	Asst. Accountant
388. Yiu Kam Man	Asst. Engineer
389. Wong Chin Fai	Foreman
390. Yang Yanru	Operator
391. Yip Wing Ching	Technician (Other)
392. Chau Miu Kam, Vivian	Officer
393. Chiu Ching Fa	Operator
394. Chiu Wing Hing	Business Report Analyst
395. Lau Ying Hung	Operator
396. Wong Chi Kwan	Operator
397. Lo Tak Shing	Planner
398. Leung Wai Ki	Store Keeper
399. Yan Wai Kwok	Operator
400. Chiu Shuk Ying	Operator
401. Leung Sheung Mei	Clerk
402. Chong Chum Wing	Helper
403. Ng Kwan Sin Sunny	Material Director
404. Quek Seow Cher	Sr. VP Operation
405. Chow Yuen Mei Mary	Customer Services Director
406. Ngai Kai Loong Dominic	MIS Director
407. Tse Lai Ling	Operator
408. Lo Siu Hing	Operator
409. Tsoi Chun Mui	Operator
410. Tsang Shu Kei	Engineer
411. Ng Yau Chung	Inspector
412. Yang Rong	Operator
413. Li Qiugan	Operator
414. Tsang Kam Fai	Operator
415. He Qiu Xiu	Operator
416. Yu Kwok Kei	Operator
417. Mok Kwai Man	Operator
418. Lam Siu Tat	Operator
419. Tam Siu Hung	Operator

420. Wun Sze Lim Freddy	VP Marketing
421. Chuk Cheung Hoi	Operator
422. Chim Wan Lung	Operator
423. Tam Wai Po	Driver
424. Chui Ho Ki	Temp. Clerk
425. Nanthakumar Kanniah	Senior Manager
426. Chong Guan Thong	Purchasing Director
427. Nie Ling	Inspector
428. Cheung Chin Pong	Asst. Engineer
429. Ng Chak Wo	Operator
430. Yeung Ching Ping	Operator
431. Lau Hung Helen	Account Manager
432. Ho Ka Kui Edmond	C.S. Officer
433. Li Wai Lung	Operator
434. Tse Wai Hung	Inspector
435. Lee Chun Fai	Support Analyst
436. Wong Shui Man	Operator
437. Wong Pan Wa	Operator
438. Chan Man Kuen	Operator
439. Ho Mei Ling	Operator
440. Ng Yim Lai Amy	Secretary
441. Choi Wai Ming	Clerk
442. Au Mei Ting Meggy	C.S. Officer
443. Wong Ka Fai	Operator
444. Fung Sau Fong	Amah
445. Shek Yin	Operator
446. Fan Chiu Wui	Operator
447. Yau Chi Leung	Operator
448. Chan Yuen Ying Lorraine	Asst. Accountant
449. Pang Keng Chi Rebecca	Asst. Accountant
450. Chan Sze Kar	Senior Programmer
451. Li Yue Yun	Operator
452. Kwok Chun Him	Senior Buyer
453. Cheng Nok Yin	Accountant
454. Lai Wai	Operator
455. Yip Yuen Cheung Eppie	Sr. HR Manager
456. Tan Enna	Sr. Buyer
457. Ng Chun Ming Luxemburg	Account Manager
458. Kwok Chuk Wan	Clerk
459. Shek Wai Yin	Buyer
460. Sze Ki Mong	Sr. Engineer
461. Li Yin Wa	Amah
462. Leung Ho Yin	Asst. Finance Manager
463. Lau Yuk Ping	Secretary
464. Lui Hin Hai	Application Manager
465. Lee Sin Lam Carol	Asst. Adm. Officer
466. Wong Shing Ming	Temp. Helper
467. Lin Hing Yuen, Dave	Engineering Director
468. Poon Yiu Wa, Steve	Financial Controller
469. Lau Ho Cheung	Sr. Engineer

470. Ng Yee Ling	Officer
471. Wu Ka Kit	Accountant
472. Cheng Cheuk Fun	Asst. Accountant
473. Lam Chun Kei	Asst. Finance Manager
474. Jerry Rodrigues	CEO
475. Yau Man Ki	Personnel Assistant
476. Lam Wing Keung	Technician
477. Wong Yuen Kwai	Operator
478. Leung Hung Sum	Operator
479. Au Tim Lun	Senior Programmer
480. Li Wai Kin	Superintendent
481. Lai Wing Mui	Operator
482. Tsang Wai Wai	Operator
483. Li Pak Hang	Technician
484. Leung Lai Yan	Asst. Engineer
485. Choy Ma Fat	Operator
486. Lam Ching Yee	Technician
487. Chan Wai Lun	Temp. Fitter
488. Wong Ching Yee Agnes	C.S. Officer
489. Choi Yau Cheung	Store Keeper
490. Wong Yuk Kam	Operator
491. Chu Kok Sang	Temp. Fitter
492. Tsui Suet Kwan	Asst. Cook
493. Pang Hiu Tung	Asst. Accountant
494. Wu Hoi Fai	Temp. Clerk
495. Tsang Woon Hung	Driver
496. Yim Tze Kin	Sr Analyst Programmer
497. Wong Ping Ho	Accountant
498. Fung Ying Bill	Security Guard
499. Fung Ka Ming Henry	Asst. Accountant
500. Chan Chung Ki Allan	Accountant
501. Au Ho Yin	Asst Accountant
502. Chan Ka Wing	Receptionist
503. Chong Yik Man	Operator
504. Chung Wai Keung	Operator
505. Chu Po Ling	Temp Operator
506. Foo Chee Shin	General Manager
507. Fok Wai Shan	Temp Technician
508. Ho Ling	Operator
509. Kwok Mei Ling	Operator
510. Lee Ching Cheung	Temp Security Guard
511. Law Tsz Tun	Technician
512. Lee Kong Hon	Quality Assurance Director
513. Lee Ki Kin	Asst Engineer
514. Li Tung Wing	Asst Engineer
515. Lui Xin Mei	Temp Amah
516. Ng Teik Ming	Sr Manager
517. Tse Nga Shan	Technician
518. Tsoi Leung Chin	Inspector
519. Wong Chun Man	Technician

520. Wong Wing Wa	Technician
521. Eddie Sik Yin Wong	VP-Global Sales
522. Chan Kwan On	Engineer
523. Tsang Kwong Pan	Senior Engineer

7.3 Transferring Employees - Singapore

1.	Ng Siu Leung Martin	Sales Director
	Teo Soon Meng James	Sales Manager
2.		
	Lim Ai Li Angeline	Sales Engineer
3.		
	Chua Shu Ping Rain	Sales Clerk
4.		

7.4 Transferring Employees - UK

1.	T. Lui Peter	Sales Director
	Y. T. Hui Daisy	Office Clerk
2.		
	Zhang Zheng Wen Sherman	Technical Engineer
3.		
	Kent Wong	Assistant Account Manager
4.		
	Li Tung Wing Edwin	Technical Engineer
5.		

7.5 Transferring Employees - US

1.	Sheilah Alegre	Sales Engineer
2.	David Valentine	Sales Director

PART 8 - BUSINESS INSURANCE POLICIES

Refer to list attached.

SCHEDULE 2

COMPLETION REQUIREMENTS

1. Seller' s obligations

- 1.1 At Completion the Seller shall deliver or procure the delivery to the Buyer of (or make available to the Buyer):
- 1.1.1 a copy of the duly executed Security Release Documents;
 - 1.1.2 as evidence of the authority of each person executing a document on the Seller' s behalf:
 - (a) a copy of the minutes of a duly held meeting of the directors of such Seller (or a duly constituted committee thereof) authorising the execution by the Seller of the document and, where such execution is authorised by a committee of the board of directors of the Seller, a copy of the minutes of a duly held meeting of the directors constituting such committee or a relevant extract thereof; or
 - (b) a copy of the power of attorney conferring the authority,
- in each case certified to be true by a director or the secretary of the Seller;
- 1.1.3 duly executed sold notes in respect of the HK Shares in favour of the Buyer or its nominee(s) (subject to written notification of the identity of the nominee(s) to the Seller not less than three (3) Business Days before Completion);
 - 1.1.4 duly executed transfers in respect of the Singapore Shares in favour of the Buyer or its nominee(s) (subject to written notification of the identity of the nominee(s) to the Seller not less than three (3) Business Days before Completion), and a working sheet computing the net asset value per share of EPCI Singapore in the form prescribed by the Stamp Duty Branch of the Inland Revenue Authority of Singapore and signed by a director or the secretary of EPCI Singapore;
 - 1.1.5 resignations in the agreed form from the directors and secretary nominated by the Buyer of EPCI HK, Lomber Circuits (Huizhou) Limited and each EPCI Singapore Group Company appointed by the Seller or the relevant Seller' s Group Company expressed to take effect from the end of the relevant meeting held pursuant to **paragraph 1.2**;
 - 1.1.6 possession of the Business, the Business Properties and of the other tangible Business Assets hereby agreed to be sold including:
 - (a) the Business Plant and Equipment;

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- (b) the Stock;
 - (c) copies of the written Business Contracts;
 - (d) the Business Records;
 - (e) the documents relating to the Business IP;
 - (f) the Business Motor Vehicles; and
 - (g) all the designs and drawings, plans, manufacturing data, technical and sales publications, advertising material and other technical and sales matter of the Business Sellers in relation to each of the Businesses together with any plates, blocks, negatives and other like material relating to each of the Businesses;
- 1.1.7 a duly executed assignment in the agreed form of the Hong Kong Lease;
- 1.1.8 a duly executed Transfer/Deed of Land or Authorization and Direction permitting the electronic registration of a Transfer of the Canadian Property in the agreed form;
- 1.1.9 in respect of each of the Business Motor Vehicles owned by Eastern Pacific Circuits (HK) Limited and used exclusively by Eastern Pacific Circuits (HK) Limited for the purposes of its Business, the prescribed notice and the vehicle registration document (and shall also deliver or procure delivery of a duplicate of the prescribed notice to the Transport Department of Hong Kong as soon as reasonably practicable after Completion); and
- 1.1.10 notice of transfer relating to the sale and purchase of the Business of Eastern Pacific Circuits (HK) Limited is published in accordance with the provisions of the Transfer of Businesses (Protection of Creditors) Ordinance;
- 1.1.11 the certificate of incorporation, common seal, minute books, statutory registers duly written up to date and share certificate books and all other statutory records of EPCI HK and EPCI Singapore;
- 1.1.12 the title deeds and documents relating to the Properties owned or occupied by each member of the Target Group;
- 1.1.13 an extract of the resolution of the sole shareholder of Eastern Pacific Circuits (Singapore) Pte Ltd approving the disposition of its Business Assets pursuant to Section 160 of the Singaporean Companies Act (Chapter 50) and, pursuant to such shareholder approval, the resolution of the board of directors of Eastern Pacific Circuits (Singapore) Pte Ltd approving such disposition on the terms of this Agreement;

- 1.1.14 an extract of the resolution of the sole shareholder of Eastern Pacific Circuits (Canada) Limited approving the sale of its Business Assets and, pursuant to such shareholder approval, the resolution of the board of directors of Eastern Pacific Circuits (Canada) Limited approving such disposition on the terms of this Agreement; and
- 1.1.15 a duly executed Tax Deed.
- 1.2 Subject to the Buyer complying with all its obligations under **clause 5** and **paragraph 2** below, the Seller shall procure that at Completion a meeting of the board of directors of each of EPCI HK and EPCI Singapore is held at which the directors:
- 1.2.1 vote in favour of the registration of the Buyer as a member of EPCI HK and EPCI Singapore in respect of the HK Shares and the Singapore Shares (as applicable) subject to (i) in the case of the Singapore Shares, the stamping of the share transfer form for the Singapore Shares, and (ii) in the case of the HK Shares, the stamping of the instrument of transfer and the bought & sold notes in respect of the HK Shares;
- 1.2.2 appoint the persons nominated by the Buyer as directors and secretary of EPCI HK and EPCI Singapore (as applicable) with effect from the end of the meeting; and
- 1.2.3 accept the resignations of each director and secretary referred to in **paragraph 1.1.5** above (as applicable) so as to take effect from the end of the meeting.
2. **Buyer's obligations**
- 2.1 At Completion the Buyer shall deliver to the Seller as evidence of the authority of each person executing a document on the Buyer's behalf:
- 2.1.1 a copy of the minutes of a duly held meeting of the directors of the Buyer (or a duly constituted committee thereof) authorising the execution by the Buyer of the document and, where such execution is authorised by a committee of the board of directors of the Buyer, a copy of the minutes of a duly held meeting of the directors constituting such committee or the relevant extract thereof; or
- 2.1.2 a copy of the power of attorney conferring the authority,
- in each case certified to be a true copy by a director or the secretary of the Buyer.
- 2.2 a certified copy of the certificate of incorporation of each new entity that has been incorporated or established for the purposes of acquiring the Business Assets, and if applicable, the EPCI HK Group and the EPCI Singapore Group, together with a letter signed by a director of the Buyer that each entity is wholly-owned by the Buyer and a certified copy of the register of members of each such entity to evidence such fact;

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- 2.3 a duly executed Tax Deed;
 - 2.4 a duly executed Assignment in the agreed form of the Hong Kong Lease;
 - 2.5 a certified copy of the Deed of Undertaking between Merix Manufacturing (Hong Kong) Limited and the Hong Kong Science and Technology Parks Corporation; and
 - 2.6 a certified copy of the Proposal Form between Merix Manufacturing (Hong Kong) Limited and the Hong Kong Science and Technology Parks Corporation.

SCHEDULE 3

SELLER' S WARRANTIES

1. ORGANIZATION

- 1.1 Each of the Seller, EPCL and EPC Cayman is an exempted company duly incorporated, validly existing and in good standing under the laws of the Cayman Islands.
- 1.2 Each member of the EPCI HK Group (including any of its representative offices or branches) has been duly incorporated or established, is validly existing and in good standing under the laws of its respective place of incorporation or establishment, and has the corporate power, authority and the necessary licences and permits required by applicable laws to conduct its respective business as now conducted in its present location and to own, operate and lease its respective properties and assets.
- 1.3 Each member of the EPCI Singapore Group (including any of its representative offices or branches) has been duly incorporated or established, is validly existing and in good standing under the laws of its respective place of incorporation or establishment, and has the corporate power, authority and the necessary licences and permits required by applicable laws to conduct its respective business as now conducted in its present location and to own, operate and lease its respective properties and assets.
- 1.4 Each of the Business Sellers is a company duly incorporated and validly existing under the laws of its respective place of incorporation, and has the corporate power, authority and the necessary licences and permits required by applicable laws to conduct its respective Business as now conducted in its present location and to own, operate and lease its respective Business Assets.
- 1.5 The information set out in the Recitals (A) and (B) of this Agreement and **schedules 11** and **12** is true and accurate.

2A. ENFORCEABILITY

2A.1

All corporate action on the part of each of the Seller, EPCL, EPC Cayman and the Business Sellers and their respective officers, directors and shareholders necessary for the authorization, execution, delivery and performance of this Agreement and the Other Documents to which any of them is a party and the performance of each of their respective obligations under this Agreement and the Other Documents to which any of them is a party has been taken or will be taken as of or prior to Completion. This Agreement has been, and each of the Other Documents to which any of the Seller, EPCL, EPC Cayman and the Business Sellers is a party, will have been at Completion, duly executed and delivered by the Seller, EPCL, EPC Cayman and the Business Sellers and, as the case may be, and this Agreement is, and each of the Other

Documents to which any of them is a party will be, (assuming due authorization, execution and delivery by Buyer) at Completion, a legal, valid and binding obligation of and enforceable against each of them, as the case may be, in accordance with its terms.

- 2A.2 Save as disclosed in the Disclosure Letter, the execution, delivery and performance of this Agreement and the Other Documents by the Seller, EPCL, EPC Cayman and the Business Sellers will not (a) constitute a violation (with or without the giving of notice or lapse of time, or both) of any applicable Law (including, without limitation, the provision, receipt or use of funds in violation of any applicable antitrust laws and applicable anti-bribery or anti-corruption regulations in any relevant jurisdiction); (b) require any consent, approval or authorization of any person; (c) conflict with or result in a breach of or constitute a default under any provision of the respective constituent or charter documents of the Seller, EPCL, EPC Cayman and the Business Sellers; or (d) result in any breach of, or constitute a default (with or without the giving of notice or lapse of time, or both) under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of any Encumbrance on any HK Shares, any Singapore Shares or any of the assets or properties of any Target Group Company pursuant to, any note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument relating to such assets or properties, to which the Seller, EPCL, EPC Cayman and the Business Sellers is a party or by which any of such assets or properties is bound or affected.

2. **CAPACITY AND AUTHORITY**

- 2.1 Each of the Seller, EPCL, EPC Cayman and the Business Sellers has the right, power and authority, and has taken all corporate action necessary, to execute, deliver and perform its respective obligations, under this Agreement and the Other Documents to which it is expressed to be a party and to consummate the transactions contemplated hereby and thereby.
- 2.2 The respective obligations of the Seller, EPCL, EPC Cayman and each Business Seller under this Agreement and each Other Document to which each of them is expressed to be a party are, or when the relevant document is executed will be, enforceable in accordance with their respective terms and this Agreement, and the Other Documents to which each of them is expressed to be a party when executed will, constitute valid and binding obligations of it.
- 2.3 The execution, delivery and performance by each of the Seller, EPCL, EPC Cayman and the Business Sellers of this Agreement and the Other Documents to which it is expressed to be a party and of the transactions contemplated hereby and thereby will not conflict with or result in a breach of, or constitute a default under, any provision of its respective articles of association.

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- 2.4 With respect to each of the Seller, EPCL, EPC Cayman and the Target Group Companies:
- 2.4.1 it has not passed a resolution for its winding-up;
 - 2.4.2 it is not being wound up;
 - 2.4.3 no petition or any other legal process has been presented to any court for its winding-up or for an administration order (which is not discharged within 14 days); and
 - 2.4.4 no liquidator, receiver, administrator or manager has been appointed to it or over all or a substantial part of its business or assets.
3. **EPCI HK**
- 3.1 The authorized and issued share capital of EPCI HK consists of 2,000,000 ordinary shares of HK\$1 each, all of which have been duly authorized and validly issued and allotted and not issued in violation of or subject to any pre-emptive rights.
 - 3.2 EPC Cayman is the sole beneficial owner of the HK Shares.
 - 3.3 The HK Shares comprise the whole of EPCI HK' s allotted and issued share capital and are fully paid or credited as fully paid. EPCI HK has not exercised any lien over the HK Shares and there is not any outstanding call on any of the HK Shares.
 - 3.4 Except for the HK Shares, there are no equity securities of any class or series of EPCI HK, or any security exchangeable into or exercisable for such equity securities, issued, reserved for issuance or outstanding. There are no options, warrants, conversion rights or other agreements to which EPCI HK is a party or by which EPCI HK is bound obligating EPCI HK to issue, deliver or sell additional shares in the capital of EPCI HK.
 - 3.5 EPC Cayman has not entered into any agreement or understanding with respect to the voting of the HK Shares.
 - 3.6 Save as Disclosed, and save as in respect of the Retained Security, on Completion, EPC Cayman will have full power and authority to convey to the Buyer good title to all of the HK Shares and there will be no Encumbrance in relation to any of the HK Shares.
 - 3.7 EPCI HK is the registered and beneficial owner of an 85.29% equity interest in Eastern Pacific Circuits (Dongguan) Ltd and a 90% equity interest in Lomber (Huizhou) Limited, in each case, free and clear of Encumbrance.

4. **EPCI SINGAPORE**

- 4.1 The authorized and issued share capital of EPCI Singapore consists of 2 ordinary shares of S\$1.00 each, all of which have been duly authorized and validly issued and allotted and not issued in violation of or subject to any pre-emptive rights.
- 4.2 EPCL is the sole beneficial owner of the Singapore Shares.
- 4.3 The Singapore Shares comprise the whole of EPCI Singapore' s allotted and issued share capital and are fully paid or credited as fully paid. EPCI Singapore has not exercised any lien over the Singapore Shares and there is not any outstanding call on any of the Singapore Shares.
- 4.4 Except for the Singapore Shares, there are no equity securities of any class or series of EPCI Singapore, or any security exchangeable into or exercisable for such equity securities, issued, reserved for issuance or outstanding. There are no options, warrants, conversion rights or other agreements to which EPCI Singapore is a party or by which EPCI Singapore is bound obligating EPCI Singapore to issue, deliver or sell additional shares in the capital of EPCI Singapore.
- 4.5 EPCL has not entered into any agreement or understanding with respect to the voting of the Singapore Shares.
- 4.6 Save as Disclosed, and save as in respect of the Retained Security, on Completion, EPCL will have full power and authority to convey to the Buyer good title to all of the Singapore Shares and there will be no Encumbrance in relation to any of the Singapore Shares.
- 4.7 EPCI Singapore is the registered and beneficial owner of a 95% equity interest in Eastern Pacific Circuits (Huiyang) Ltd and an 85% equity interest in Eastern Pacific Circuits (Huizhou) Ltd, in each case, free and clear of Encumbrance.

5. **BUSINESS SELLERS**

- 5.1 All of the issued shares in the capital of each Business Seller is legally and beneficially owned by a Group Company free from Encumbrances.
- 5.2 Save as Disclosed, each Business Seller is the legal and beneficial owner of the Business Assets and Business Properties set out in Schedule 1, free and clear of Encumbrance.

6. **FINANCIAL STATEMENTS**

- 6.1 The Seller has made available to the Buyer true and complete copies of the Financial Statements. So far as the Seller is aware, since 31 December 2004 there has been no Material Adverse Change in comparison with the business or financial position of the Target Group as a whole, or the assets or liabilities of the Target Group as a whole as

reflected in the FY2004 Audited Accounts. The FY2004 Audited Accounts have not included any accrual for payment of dividend by Eastern Pacific Circuits (Huizhou) Limited and EPCI Singapore.

- 6.2 The Disclosure Letter contains the draft Financial Statements for the financial year ended 31 December 2003, the Financial Statements for the financial years ended 31 December 2002 and 31 December 2001, the Management Accounts and the FY2005 Monthly Management Accounts for January 2005 and February 2005 (the “**Disclosed Financial Statements**”).
- 6.3 The Financial Statements present fairly and accurately in all material respects, the financial condition, results of operations and cash flows of the Seller’s Group Companies as of dates thereof and for the periods covered thereby indicated. The Financial Statements have been prepared in accordance with HK GAAP consistently applied throughout the periods covered thereby.
- 6.4 At Completion (subject to the Borrowings being repaid), each of the Seller, EPCL, EPC Cayman, the Business Sellers and EPCI HK Group and EPCI Singapore Group will be solvent.
- 6.5 Adequate provision has been made in the FY2004 Audited Accounts in accordance with HK GAAP with respect to plant and equipment.

7. **LITIGATION**

So far as the Seller is aware, (a) no Target Group Company or any of its officers or directors set out in **schedule 11** and **schedule 12** hereto is involved in any civil, criminal, arbitration, administrative or other proceeding (other than in relation to the collection of debts arising in the ordinary course of business of the relevant Target Group Company) or investigation, (b) no civil, criminal, arbitration, administrative or other proceedings (other than in relation to the collection of debts arising in the usual course of business) or investigation is pending or threatened by or against any Target Group Company, (c) no Target Group Company has received notice of any order, writ, judgment, injunction, decree, stipulation, consent order, determination or award of any Government Authority court or tribunal to which it is subject; and (d) there are no claims, actions, suits, proceedings or investigations pending or threatened by or against the Seller, EPCL, EPC Cayman, EPCI HK Group or EPCI Singapore Group with respect to this Agreement or the Other Documents, or in connection with the transactions contemplated hereby or thereby.

8. **GOVERNMENTAL AUTHORISATIONS AND REGULATIONS**

- 8.1 So far as the Seller is aware, each Target Group Company has obtained all applicable and material governmental consents, licences, permits, grants, or other authorizations of a Government Authority that is required for the operation of its business as now

conducted in its present location (each an “**Approval**”), and each such Approval is in full force and effect. So far as the Seller is aware, each Target Group Company has fulfilled and performed its obligations in all material respects under each of the Approvals and there are no circumstances which indicate that any of the Approvals held by any Target Group Company will or is likely to be revoked, terminated or not renewed (whether or not as a result of the transactions contemplated hereunder) and which could reasonably be expected to result in a Material Adverse Change. So far as the Seller is aware, no Target Group Company has received any notice that it is in violation of any Law applicable to it and which could reasonably be expected to result in a Material Adverse Change. So far as the Seller is aware, no notice of default or of any dispute concerning any Target Group Company Approval has been received.

8.2 The Disclosure Letter contains a list and description of all Approvals held by each Target Group Company as at the date of this Agreement, complete and correct copies of which have been made available by the Seller to the Buyer.

8.3 Each of the Approvals is in full force and effect.

9. **COMPLIANCE WITH ENVIRONMENTAL REGULATIONS**

9.1 So far as the Seller is aware, none of the Target Group Companies (and none of their activities carried on in the Property) is in violation of any Environmental Laws or any environmental permits, license or approval and which could reasonably be expected to result in a Material Adverse Change.

9.2 So far as the Seller is aware, none of the Target Group Companies has received notice from any Government Authority alleging that it or any of its assets is not in compliance with Environmental Laws, and, so far as the Seller is aware, there are no circumstances in existence at the Completion Date that could reasonably be expected to prevent or interfere with material compliance by any Target Group Company with Environmental Laws which are in existence at the Completion Date.

9.3 So far as the Seller is aware, the Seller has not received notice of any claim, action, cause of action or investigation by any person alleging potential liability of any Target Group Company (including, without limitation, potential liability for investigatory costs, cleanup costs, governmental response costs, natural resources damages, property damages, personal injuries or penalties) or seeking injunctive relief for material violation of Environmental Laws that is pending or threatened against any Target Group Company, any of its respective assets or any of the real property from which any of them conducts business and which could reasonably be expected to result in a Material Adverse Change.

10. **INTELLECTUAL PROPERTY**

- 10.1 Each Target Group Company owns or is a licensee of or otherwise has the right to use all Intellectual Property Rights in the manner currently used by it.
- 10.2 The business of each Target Group Company at the date of this Agreement does not infringe any third party rights in Intellectual Property.
- 10.3 So far as the Seller is aware, no claims are pending against a Target Group Company by any third party challenging the Target Group Company' s use of any of the Intellectual Property Rights.
- 10.4 So far as the Seller is aware, there is no unauthorized use of the Intellectual Property Rights by any third party.

11. **PROPERTY**

- 11.1 The Property comprises all of the land, premises and buildings owned, held by, vested in, occupied or used by, or in the possession of, the Target Group.
- 11.2 Save as Disclosed, the relevant Target Group Company has a good and marketable title to the Property (other than the Property held by the relevant Target Group Company under a lease).
- 11.3 All real property leases to which a Target Group Company is a party are valid, binding and enforceable against the parties thereto and in effect in accordance with their respective terms, except to the extent that enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, or other laws affecting the enforcement of creditors' rights generally and by principles of equity and (b) there is not under any of such leases any existing material default by the relevant Target Group Company.
- 11.4 Save as Disclosed, none of the owned Property is subject to any Encumbrance. None of the Business Properties will, upon Completion, be subject to any Encumbrance.
- 11.5 So far as the Seller is aware, none of the Target Group Companies has received any notice of violation of any covenant or other restriction to which any of the Properties are subject.

12. **ASSETS**

- 12.1 Save as Disclosed, each material asset included in the FY2004 Audited Accounts (other than assets disposed of in the ordinary course of business or which are the subject matter of operating or finance or capital leases) is owned by the relevant Group Company free from Encumbrances.

- 12.2 All material asset leases to which a Target Group Company is a party are valid, binding and enforceable against the parties thereto and in effect in accordance with their respective terms, except to the extent that enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, or other laws affecting the enforcement of creditors' rights generally and by principles of equity.
- 12.3 The Disclosure Letter contains a list of all the operating leases as at the date hereof.
13. **MATERIAL CONTRACTS**
- 13.1 The Disclosure Letter lists all of the following contracts of each Target Group Company ("**Material Contracts**"):
- 13.1.1 any outstanding or continuing contract for capital expenditures, performance or receipt of services, or delivery or purchase of goods, in each case that individually (a) has value or payments in excess of US\$100,000 in any calendar year or (b) is not capable of being terminated without compensation at any time with three months' notice or less;
 - 13.1.2 any contract guaranteeing in any way with or without security any liability of a third party;
 - 13.1.3 any power of attorney, proxy or similar instrument;
 - 13.1.4 any contract containing restrictions on the operation of, or covenants not to compete in, any business or with any person anywhere in the world;
 - 13.1.5 any contract entered into other than in the ordinary course of business that is to be performed in whole or in part at or after the date of this Agreement; and
 - 13.1.6 all real property leases and each lease of personal property.
- 13.2 So far as the Seller is aware, (a) all Material Contracts are in all material respects valid, binding and in full force and effect in accordance with their respective terms, (b) neither the relevant Target Group Company nor any counterparty to any Material Contract is in material breach of any Material Contract, and (c) the relevant Target Group Company has not received notice of any fact or circumstance which might invalidate or give rise to a ground for termination, avoidance or repudiation of a Material Contract which is currently unresolved.
14. **LABOUR**
- 14.1 So far as the Seller is aware, each Target Group Company is not and has not been engaged in any illegal labour practice nor is or has been in violation of any applicable Laws respecting employment and employment practices, terms and conditions of employment, and wages and hours.

- 14.2 So far as the Seller is aware, there is no pending or threatened, and there has been no strike, labour dispute, employee, claim, slowdown or stoppage against a Target Group Company in the 18 months prior to the date of this Agreement. So far as the Seller is aware, no Target Group Company is a party to nor bound by any collective bargaining agreement.
- 14.3 Save as Disclosed, no Target Group Company maintains or contributes to (or has ever maintained or contributed to) a defined benefits retirement plan.
15. **TAX MATTERS**
- 15.1 The Disclosure Letters sets out (i) all income Tax Returns filed by or on behalf of each member of the EPCI HK Group and the EPCI Singapore Group relating to the financial years ended 31 December 2001, 31 December 2002 and 31 December 2003, and (ii) all jurisdictions in which each member of the EPCI HK Group and the EPCI Singapore Group has paid material non-income Taxes at any time during the past three fiscal years.
- 15.2 Save as Disclosed, each member of the EPCI HK Group and EPCI Singapore Group: (i) has timely filed on or before the applicable due date with each appropriate Government Authority all Tax Returns required to be filed by or with respect to it, and all such Tax Returns have been properly completed in all material respects in compliance with applicable Law, and (ii) has fully and timely paid, or has made adequate provision on the Financial Statements in accordance with HK GAAP for, all Taxes required to be paid by it (whether or not such Taxes have been reflected on any Tax Return).
- 15.3 In relation to each member of the EPCI HK Group and the EPCI Singapore Group, all Taxes incurred prior to Completion, to the extent not required to have been previously paid, will be reserved for on the Financial Statements in accordance with HK GAAP. All Taxes that each member of the EPCI HK Group and the EPCI Singapore Group have been required by Law to withhold or to collect for payment have been duly withheld and collected, and have been paid over to the appropriate Government Authority in compliance in all material respects with all applicable Law, and each member of the EPCI HK Group and the EPCI Singapore Group have complied in all material respects with all information reporting requirements under all applicable Law, including maintenance of required records with respect thereto.
- 15.4 Save as Disclosed, (a) there are no pending or threatened claims, actions, assessments, suits, investigation or other proceedings by any Government Authority with respect to Taxes relating to any member of the EPCI HK Group or any member of the EPCI Singapore Group; (b) no extension or waiver of the limitation period applicable to any Tax Return of, or that includes, any member of the EPCI HK Group or any member of the EPCI Singapore Group is in effect or has been requested; (iii) all deficiencies

claimed, proposed or asserted or assessments made as a result of any examinations by any Government Authority of the Tax Returns of, or that include, any member of the EPCI HK Group or any member of the EPCI Singapore Group have been fully paid or fully settled, or are being contested in good faith by appropriate proceedings and adequate reserves have been made for such Taxes on the Financial Statements in accordance with HK GAAP; (iv) there are no Encumbrances for Taxes upon the Business Assets, HK Shares, Singapore Shares or any of the assets of the Target Group, except Encumbrances for current Taxes not yet due and payable; and (v) no power of attorney that currently is in effect has been granted by or with respect to any member of the EPCI HK Group or any member of the EPCI Singapore Group with respect to any Tax matter.

- 15.5 Each member of the EPCI HK Group and the EPCI Singapore Group is in full compliance in all material respects with all terms and conditions of any Tax exemption, Tax holiday or other Tax reduction agreement or order. So far as the Seller is aware, the consummation of the transactions contemplated by this Agreement does not have a material adverse effect as at Completion on the continued validity and effectiveness of any such Tax exemption, Tax holiday or other Tax reduction agreement or order.
- 15.6 Each member of the EPCI HK Group and the EPCI Singapore Group is and has at all times been resident for Tax purposes in its place of incorporation or formation and is not and has not at any time been treated as resident in any other jurisdiction for any Tax purpose (including any double Taxation arrangement).
- 15.7 The Seller has made available to the Buyer correct and complete copies of all Tax Returns of, or that include any member of the EPCI HK Group or the EPCI Singapore Group for which the statute of limitations has not yet expired and all audit reports.
- 15.8 Neither the Seller nor any member of the EPCI HK Group nor any member of the EPCI Singapore Group has given any Tax indemnity or been bound by any Tax sharing, Tax allocation or similar agreement.
- 15.9 Since December 31, 2003, neither the Seller nor any member of the EPCI HK Group nor any member of the EPCI Singapore Group has made or changed any applicable Tax election, adopted or changed any accounting method or applicable Tax reporting principle or practice, settled or compromised any Tax liability, or waived or extended the statute of limitations in respect of any applicable Taxes.
- 15.10 No Tax claim has been made by a Governmental Authority in a jurisdiction where any member of the EPCI HK Group or the EPCI Singapore Group does not file any Tax Return that it is or may be subject to Taxation by that jurisdiction.

16. **INSURANCE**

- 16.1 So far as the Seller is aware, (i) all of the material insurance policies under which a Target Group Company is an insured (“Policies”) are in full force and effect and (ii) no notice of cancellation or termination in respect of any of the Policies has been received by the relevant Target Group Company insured.
- 16.2 So far as the Seller is aware, no claim is outstanding under any of the Policies.
- 16.3 So far as the Seller is aware, all premiums which are due under the Policies have been paid.
- 16.4 The Disclosure Letter contains copies of all the material Policies in respect of the Target Group Companies.

17. **NO BROKERS**

Other than UBS AG, the Seller is not obligated to pay any fees or expenses of any broker, finder, investment banker or other person in connection with the transactions contemplated by this Agreement.

18. **BANK ACCOUNTS**

The Disclosure Letter sets out the names and locations of all banks, trust companies, savings and loan associations and other financial institutions at which each member of the EPCI HK Group and EPCI Singapore Group maintains accounts of any nature and the names of all persons authorized to draw thereon or make withdrawals therefrom.

19. **ABSENCE OF CERTAIN CHANGES OR EVENTS**

Since 31 December 2004, (a) each Target Group Company has conducted its businesses in the usual course consistent with its practice prior to 31 December 2004 and (b) each Target Group Company has not:

- 19.1 declared, set aside or paid any dividend or made any other distribution on or in respect of its shares or declared any direct or indirect redemption, retirement, purchase or other acquisition by it of such shares;
- 19.2 save as disclosed in the Disclosure Letter, issued any shares or other securities; or
- 19.3 granted any increase in the compensation payable by it to its directors, officers or employees, except in the ordinary course of business and in a manner consistent with prior practice.
- 19.4 entered into any legally binding agreement transaction or commitment other than in the ordinary course of business and consistent with past practice;
- 19.5 incurred any Indebtedness otherwise than in the ordinary course of business;

19.6 sold, transferred or otherwise disposed of any of its properties or assets (real or personal, tangible or intangible) with an aggregate net book value in excess of US\$250,000, except in respect of the transfer of equipment to another Target Group Company the sale of Inventory, finished goods or scrap in the ordinary course of business; or

19.7 made any change in any method of accounting or accounting practices or internal control procedures.

20. **WARRANTIES**

The Disclosure Letter sets forth a list of all product warranty claims (including claims for value-add payments) individually in excess of US\$100,000 paid by any Target Group Company for the period beginning December 31, 2003, up to 28 February 2005 and such list is true, accurate and complete.

21. **CAPITAL IMPROVEMENTS**

Save as disclosed in the Material Contracts and the Disclosed Financial Statements, the Disclosure Letter sets forth all the capital improvements or purchases or capital expenditures that the Target Group Companies have committed to or contracted for in excess of US\$250,000 and that have not been completed prior to the date hereof and the cost and expense reasonably estimated to complete such work and purchases.

22. **CUSTOMERS AND SUPPLIERS**

22.1 The Disclosure Letter sets out:

22.1.1 a list of the ten largest customers of each Target Group Company, in terms of revenue during the fiscal years ended 31 December 2003 and 31 December 2004, and the current fiscal year through 28 February, 2005, (collectively, the “**Top 10 Customers**”), showing the total revenue received in each such period from each such customer; and

22.1.2 a list of the ten (10) largest suppliers of each Target Group Company, in terms of purchases during the fiscal years of the Company ended 31 December 31 2003 and 31 December 2004, and the current fiscal year through 28 February, 2005 (collectively, the “**Top 10 Suppliers**”), and showing the approximate total purchases in each such period from each such supplier.

23. **NONCOMPETITION AGREEMENTS**

Neither the Seller or any Target Group Company is subject to any noncompetition agreements.

The Business Assets, HK Shares and Singapore Shares to be sold to Buyer pursuant to this Agreement include all the assets and rights used by the Target Group to operate the Business Assets and the business of the Target Group as at the Completion Date, in the same manner as currently conducted by the relevant member(s) of the Target Group. The execution and delivery of the Other Documents by the parties and the payment by Buyer of any consideration payable under this Agreement will, subject to the terms of this Agreement including, without limitation, the Retained Security, result, in Buyer' s immediate acquisition of good title to the Business Assets, HK Shares and Singapore Shares free and clear of any Encumbrance.

LIMITATIONS ON THE SELLER' S LIABILITY

1. LIMITATION ON QUANTUM

1.1 The Seller is not liable in respect of a Relevant Claim:

1.1.1 unless the amount that would otherwise be recoverable from the Seller (but for this **paragraph 1.1.1**) and the liability determined in respect of that Relevant Claim exceeds US\$100,000; and

1.1.2 unless and until the amount that would otherwise be recoverable from the Seller (but for this **paragraph 1.1.2**) and the liability determined in respect of that Relevant Claim, when aggregated with the Seller' s liability determined in respect of other Relevant Claims (excluding any amounts in respect of a Relevant Claim for which the Seller has no liability because of **paragraph 1.1.1** and excluding any amounts in respect of Relevant Claims which have been taken into account in the determination of the Actual Adjusted 2005 EBITDA in accordance with **clause 8.10(b)(1)**), exceeds US\$1,000,000, and in the event that the aggregated amounts exceed US\$1,000,000, the Seller shall, provided that **paragraph 1.1.1** above has been satisfied, only be liable for the total amount of all such Relevant Claims in excess of US\$360,000.

1.1.3 For the purposes of determining whether a Relevant Claim exceeds US\$100,000, all items of loss of a similar type (irrespective of the amount of individual loss) shall be aggregated.

1.2 (a)

The Seller shall not be liable in respect of any Fundamental Warranty Claim to the extent that such Fundamental Warranty Claim, which when aggregated with all Fundamental Warranty Claims, exceeds the Fundamental Warranty Cap.

(b)

The Seller shall not be liable in respect of any Relevant Claim other than a Fundamental Warranty Claim, which when aggregated with all Relevant Claims other than Fundamental Warranty Claims, exceeds the General Claim Cap.

Provided that the Seller shall not be liable in respect of any Relevant Claim pursuant to 1.2(a) and (b), which when aggregated with all Relevant Claims, whether comprising Fundamental Warranty Claims and/or Relevant Claims other than Fundamental Warranty Claims, exceed the Fundamental Warranty Cap.

1.3 The Buyer shall not be entitled to claim for any punitive, indirect or consequential loss (including loss of profit) in respect of any Relevant Claim.

2. TIME LIMITS FOR BRINGING CLAIMS

The Seller is not liable for a Relevant Claim unless the Buyer has notified the Seller of the Relevant Claim stating in reasonable detail the nature of the Relevant Claim and the amount claimed (detailing the Buyer's calculation of the loss thereby alleged to have been suffered) on or before the date that is:

- 2.1 1 March 2007, in respect of any Relevant Claim other than a Fundamental Warranty Claim; and
- 2.2 1 October 2007, in respect of any Fundamental Warranty Claim.

3. NOTICE OF CLAIMS

A Relevant Claim notified in accordance with **paragraph 2** of this **schedule 4** and not satisfied, settled or withdrawn is unenforceable against the Seller on the expiry of the period of 6 months starting on the day of notification of the Relevant Claim, unless proceedings in respect of the Relevant Claim have been issued and served on the Seller.

4. MITIGATION

Nothing in this **schedule 4** restricts or limits the parties general obligation at law to mitigate any loss or damage which it may incur in consequence of a matter giving rise to a Relevant Claim. The parties agree that the obligation at law to mitigate any loss or damage which it may incur in consequence of a matter giving rise to a Relevant Claim shall apply mutatis mutandis to any loss or damage it may incur in consequence of a matter giving rise to a Relevant Claim under the Tax Deed (notwithstanding that there is no obligation at law to mitigate loss or damage which gives rise to a claim under an indemnity).

5. SPECIFIC LIMITATIONS

The Seller is not liable in respect of a Relevant Claim:

- 5.1 to the extent that the matter giving rise to the Relevant Claim would not have arisen but for:
 - 5.1.1 an Event before or after Completion at the request or direction of a Buyer's Group Company or a director, employee or authorised agent of a Buyer's Group Company; or
 - 5.1.2 the passing of, or a change in, a Law, interpretation of the Law or administrative practice of a Government Authority after the Completion Date an increase in the Tax rates or an imposition of Tax, in each case not actually or prospectively in force at the Completion Date; and

5.2 to the extent that the matter giving rise to the Relevant Claim is a Tax liability of any Group Company arising solely because the relevant Group Company' s assets are more than, or its liabilities are less than, were taken into account in computing the provision for Tax in the Financial Statements.

6. **RECOVERY ONLY ONCE**

The Buyer is not entitled to recover more than once in respect of any one matter giving rise to a Relevant Claim.

7. **CONDUCT OF RELEVANT CLAIMS**

7.1 If the Buyer becomes aware of a matter which constitutes or which would or could be reasonably expected to give rise to a Relevant Claim:

7.1.1 the Buyer shall as soon as practicable (having regard to any applicable time limits and other relevant circumstances), give notice to the Seller of the matter;

7.1.2 where the Relevant Claim relates to a claim against an EPCI HK Group Company or an EPCI Singapore Group Company by a third party, the Buyer shall, and shall ensure that each Buyer' s Group Company shall, in each case subject to the consent, if required, of the Chinese partner to the relevant Group Company, provide to the Seller and its advisers (during normal business hours or at a time acceptable to the Buyer and the relevant Buyer Group Company) reasonable access to premises and personnel and to relevant assets, documents and records within the power or control of the Buyer solely for the purposes of investigating that claim upon reasonable notice in writing being given by the Seller to the Buyer;

7.1.3 the Seller (at its cost) may take copies subject to the Buyer' s consent (which shall not be unreasonably withheld or delayed) of the documents or records, and photograph the premises or assets, referred to in **paragraph 7.1.2** of this **schedule 4**;

7.1.4 the Buyer shall not, and shall ensure that no Buyer' s Group Company will, admit liability in respect of, or compromise or settle, the matter without the prior written consent of the Seller (which shall not be unreasonably withheld or delayed); and

7.1.5 the Buyer shall take all reasonable action to mitigate any loss suffered by it or any Buyer' s Group Company in respect of a matter giving rise to a Relevant Claim.

8. **RECOVERY FROM ANOTHER PERSON**

- 8.1 If the Seller pays to a Buyer' s Group Company an amount in respect of a Relevant Claim, and a Buyer' s Group Company subsequently recovers from another person an amount which is directly referable to the subject matter of the Relevant Claim and which would not otherwise have been received by the Buyer, the Buyer shall pay to the Seller an amount equal to the lesser of:
(i) the sum recovered from the third party less any reasonable costs and expenses incurred in obtaining such recovery; and (ii) the amount previously paid by the Seller to the Buyer.

9. **MATTERS DISCLOSED**

- 9.1 The Seller shall not be liable for any Relevant Claim for breach of the Warranties if and to the extent that the fact, matter event or circumstance giving rise to such Relevant Claim:

9.1.1 is disclosed, allowed, provided or reserved in the FY2004 Audited Accounts; or

9.1.2 is reflected, provided for or otherwise taken into account in the Completion Statement.

SCHEDULE 5

ACTION PENDING COMPLETION

1. Each Target Group Company shall operate its business in the ordinary and usual course, in the same manner and scope as conducted as at the date of this Agreement;
2. the Buyer and its agents will, subject to the Buyer' s obligation of confidentiality set out in **clause 22** of this Agreement, upon reasonable notice during normal business hours, be allowed access to the employees and premises of each Target Group and shall also be allowed access to, and to take copies of, the books and records of each Target Group Company including, without limitation, the statutory books, minute books, leases, licenses, contracts entered into by any Business Seller, details of receivables, Intellectual Property, tax records, supplier lists and customer lists in the possession or control of any Target Group Company provided that such access is confined to information that is reasonably necessary to plan for integration after Completion and that such information (together with all copies thereof) are returned to the Seller promptly in the event Completion does not take place;
3. each Target Group Company shall take all reasonable steps to preserve its property and assets and will not cancel or amend any Business Insurance Policy;
4. each Target Group Company shall take all reasonable steps to preserve the validity of its Intellectual Property;
5. save as Disclosed to the Buyer in the 2005 business plan for the Seller' s Group, each Target Group Company will not make any change in the existing nature, scope or organisation of its business;
6. each Target Group Company will not acquire an interest in a corporate body or merge or consolidate with a corporate body or any other person, enter into any demerger transaction or participate in any other type of corporate reconstruction;
7. save as Disclosed, each Target Group Company will not declare, pay or make a dividend or distribution;
8. each Target Group Company will not, save in connection with the release of the Security (other than the Retained Security) upon the repayment of the Debt Amount to the Lenders on Completion, create, or agree to create or amend, an Encumbrance over any real property or another asset or redeem, or agree to redeem, an existing Encumbrance over any real property or another asset;
9. each Target Group Company will not give, or agree to give, a guarantee, indemnity or other agreement to secure, or incur financial or other obligations with respect to, another person' s obligation (other than in the ordinary course of business);

10. each Target Group Company shall use such efforts consistent with past practice to keep available the services of its present officers and key employees and preserve its relationship with material customers, suppliers, distributors and others having business dealings with it;
11. each Target Group Company will not, without the consent of the Buyer (not to be unreasonably withheld or delayed):
 - 11.1 incur or enter into any agreement or commitment involving any capital expenditure in excess of US\$250,000 per item and US\$1,500,000 in aggregate in respect of the capital expenditure items listed in **schedule 6**, or (ii) in excess of US\$50,000 per item and US\$500,000 in aggregate in respect of any capital expenditure items not listed in **schedule 6**.
 - 11.2 enter into or amend any Material Contract: (i) which is not capable of being terminated without compensation at any time with three months' notice or less; or (ii) which is not in the ordinary course of business or (iii) which has an aggregate amount of value or aggregate payments in excess of US\$250,000 in any calendar year.
 - 11.3 incur any Indebtedness otherwise than in the ordinary course of business;
 - 11.4 acquire, sell, transfer, assign or otherwise dispose of or agree to acquire, sell, transfer, assign or otherwise dispose of any of property or assets (real or personal, tangible or intangible) in each case, involving consideration expenditure or liabilities in excess of US\$250,000 in aggregate except in respect of the transfer of equipment to another Target Group Company, the sale of Inventory or finished goods or scrap in the ordinary course of business;
 - 11.5 amend any of the terms on which goods, facilities or services are supplied to the extent that any such amendment is likely to have a material adverse impact on the business or financial position of the relevant Target Group Company, except where required to do so in order to comply with any applicable legal or regulatory requirement;
 - 11.6 amend or discontinue any insurance contract, fail to notify any insurance claim in accordance with the provisions of the relevant policy or settle any such claim materially below the amount claimed;
 - 11.7 allot, issue, redeem, vary or repurchase or agree to allot, issue, redeem, vary or repurchase any share or loan capital (or option or right to subscribe for the same) of EPCI HK Group and EPCI Singapore Group;
 - 11.8 acquire or agree to acquire any share, shares or other interest in any company, partnership or other venture or incorporate any subsidiary;

-
- 11.9 make any change to its accounting practices or policies or accounting reference date or, in relation to EPCI HK Group and EPCI Singapore Group only, amend its memorandum or articles of association (or equivalent constitutional documents);
 - 11.10 make or change any applicable Tax election, adopt or change any Tax accounting method or applicable Tax reporting principle or practice, settle or compromise any Tax liability, or waive or extend the statute of limitations in respect of any applicable Taxes;
 - 11.11 discontinue or cease to operate all or a material part of its business or resolve to be wound up;
 - 11.12 commence, compromise or discontinue any legal or arbitration proceedings involving a claim in excess of US\$100,000 (other than in respect of the collection of debts which are not material in the context of the relevant Target Group Company in the ordinary course of business);
 - 11.13 acquire or agree to acquire or dispose of or agree to dispose of any freehold or leasehold interest in land; and
 - 11.14 save as required by Law or in connection with the transactions contemplated by this Agreement and the Other Documents, change the terms of employment (including, without limitation, remuneration and pension entitlements) of any Transferring Employee or provide any gratuitous payment to any Transferring Employee or dismiss or terminate (except with good cause) the employment of any Transferring Employee or engage or appoint any additional employees.

provided that nothing in this **schedule 5** shall prevent any member of the Seller' s Group from complying with its respective obligations under this Agreement and no member of the Seller' s Group shall be liable for breach of this **schedule 5** for actions taken to comply with its respective obligations under this Agreement.

- 12. To the extent that any of the restrictions in this **schedule 5** relates to a Business Seller, the restriction shall only apply to the Business and the Business Assets of that Business Seller.

SCHEDULE 6

CAPITAL EXPENDITURE

attached

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SCHEDULE 7

INTENTIONALLY DELETED

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SUBORDINATED PROMISSORY NOTE

Merix Caymans Trading Company Limited

[Date] 2005

FOR VALUE RECEIVED, Merix Caymans Trading Company Limited, a company incorporated under the laws of the Cayman Islands with its registered office at Century Yark, Cricket Square, Hutchins Drive, P.O. Box 2681 GT, Grand Cayman, British West Indies (the “**Company**”), unconditionally and irrevocably promises to pay to the order of Eastern Pacific Circuits Holdings Limited (“**Seller**”) the aggregate of (a) Eleven Million U.S. Dollars (U.S.\$11,000,000) and (b) an amount equal to the EBITDA Earnout Consideration (as defined in the SPA, as defined below) (“**Principal**”), plus interest on the unpaid balance of the Principal from the date hereof at the rate of (i) 7% per annum from the date of this Note to and inclusive of 1 December, 2006, (ii) thereafter 8% per annum to and inclusive of 1 December 2007, and (iii) thereafter 9% per annum until this Note is fully paid as specified below (“**Fixed Interest Rate**”). The maturity date of this Note is the later of (a) 15 March 2009; and (b) the date that is ten (10) Business Days after the date on which all Relevant Claims are settled (“**Maturity Date**”).

The Company and the Seller are party to a Seller Subordination Agreement dated on or about the date of this Note with Standard Chartered Bank (Hong Kong) Limited as the security agent under the Credit Agreement (as defined below) (“**Seller Subordination Agreement**”). The terms of this Note are, where expressly provided for, subject to the terms of the Seller Subordination Agreement.

1. Purchase Agreement

This is the Note referred to in the Master Sale and Purchase Agreement dated 14 April, 2005 as varied by letter agreements dated 28 July, 2005 and 16 September 2005 and further amended by a Supplemental Agreement dated 29 September, 2005 (“**SPA**”) between the Seller and Merix Corporation as the Buyer. Capitalised terms used, but not defined, herein shall have the meaning given to them in the SPA.

2. Subordination to Credit Agreement

(a) The Company is a party to a US\$30,000,000 credit agreement dated on or about the date of this Note between (amongst others) the Company and Standard Chartered Bank (Hong Kong) Limited as the security agent (“**Credit Agreement**”). “**Senior Obligations**” means all of the liabilities and payment obligations of the Company and its

subsidiaries under the Credit Agreement and, subject to paragraph 2(b), all complete and partial refinancings of such liabilities and payment obligations. Notwithstanding any other provision in this Note, all payments hereunder shall be deferred until all the Senior Obligations (actual or contingent) have been paid and discharged in full unless expressly permitted under Clause 4 (Permitted Payments) of the Seller Subordination Agreement.

(b) If the Senior Obligations are refinanced on an arm's length basis, the parties agree to enter into a subordination agreement with the parties advancing funds for the refinancing on terms similar to those in the Seller Subordination Agreement in respect of and to the extent that the new advances do not exceed the Senior Obligations then outstanding.

3. Payment

(a) Accrued interest shall be payable in arrears on the first business day of each March, June, September and December beginning 1 December 2006 (each a "**Quarterly Payment**") and on the Maturity Date; provided that if the prevailing rate of interest under the Credit Agreement ("Lender Rate") during the relevant interest period, is less than the Fixed Interest Rate, the interest payment for such period shall be the amount calculated at the Lender Rate and the difference between the accrued interest calculated by reference to the Fixed Interest Rate and the Lender Rate for such period ("**Interest Rate Difference**") shall be paid on the Maturity Date. Interest shall accrue on the Interest Rate Difference at the Fixed Interest Rate and the amount of such interest shall be paid on the Maturity Date.

(b) Regardless of the date EBITDA Earnout Consideration is determined, it shall be deemed to have been outstanding from the date of this Note for all interest calculation purposes. Once the EBITDA Earnout Consideration is determined, all accrued and unpaid interest thereon, subject to the interest payment limitations in Section 3(a), shall be paid on the first Quarterly Payment after such determination.

(c) Principal shall be paid in four equal installments of 25% of the Principal each on 1 March 2007, 1 December 2007, 1 December 2008 and 15 March 2009 (each a "**Principal Payment**"). Each Principal Payment shall be made or deemed satisfied as follows: (i) first, by reduction of the amount due by the amount of the Post-Cash Working Capital Shortfall determined pursuant to Clause 6.8 of the SPA not previously applied to satisfaction of Principal; (ii) second, by reduction of the amount due by the amount of settled Relevant Claims not previously applied to the satisfaction of Principal; (iii) third, by suspension of the payment obligation by the amount of asserted, but unsettled, Relevant Claims in the manner provided in Section 4 hereof to the extent that such unsettled Relevant Claims have not previously been applied to the suspension of Principal Payments; and (iv) fourth, by payment in immediately available funds.

(d) If the Company fails to make any Quarterly Payment or Principal Payment or pay any part thereof on its due date, interest on the unpaid amount shall accrue on a day to day basis at the relevant Fixed Interest Rate from but excluding the due date to and including the date of actual payment.

(e) All payments shall be applied to accrued interest and thereafter to principal.

(f) All amounts due hereunder are payable in lawful money of the United States of America.

(g) Principal plus accrued interest may be prepaid at any time without penalty by the Company.

(h) Notwithstanding anything to the contrary contained herein or in the SPA, in no event shall any amount payable by the Company as interest or other charges on this Note exceed the highest lawful rate permissible under any law applicable hereto.

4. **Relevant Claims**

If, in accordance with Schedule 4 of the SPA, the Buyer gives the Seller notice of a Relevant Claim, and such Relevant Claim is not settled or otherwise determined by the date of a Principal Payment, the Principal Payment shall be suspended in the manner described in Section 3(c) by an amount equal to such unsettled Relevant Claim (“**Amount Claimed**”). Upon the settlement or determination of such Relevant Claim, the Principal Payment shall be deemed satisfied to the extent of the amount settled or otherwise determined in respect of such Relevant Claim (the “**Settled Amount**”), and an amount equal to the Amount Claimed less the Settled Amount, if any, shall be paid to the Seller within ten (10) Business Days of the settlement or determination of such Relevant Claim.

5. **Acceleration**

(a) The amounts payable hereunder may be declared immediately due and payable by the Seller if: (a) the Company fails to make any Quarterly Payment when due and such failure to pay continues for five (5) days, (b) the Company fails to make any Principal Payment when due, or (c) the Company or any of its subsidiaries or the Company’s shareholder raises financing other than the Facility (as defined in the Credit Agreement), which in a single transaction or a series of related transactions delivers proceeds in excess of US\$50,000,000, or (d) the Company shall have made an assignment for the benefit of creditors or shall have admitted in writing its inability to pay its debts as they become due or consented to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of all or of substantially all of its property; or by order of a court of competent jurisdiction a receiver or liquidator or trustee of the Company or any of its property shall have been appointed and shall not have been discharged within 60 days, or by decree of such a court the Company shall have been adjudicated insolvent and such decree shall have continued undischarged and unstayed for 60 days after the entry thereof; or a petition to reorganize the Company, pursuant to any bankruptcy or similar statute applicable to the Company, shall have been filed against the Company and shall not have been dismissed

within 60 days after such filing, or the Company shall have been adjudicated a bankrupt, or shall have filed a petition in voluntary bankruptcy under any provision of any bankruptcy law, or shall have consented to the filing of any bankruptcy or reorganization petition against it under any such law, or shall have filed a petition to reorganize the Company pursuant to any applicable law, provided that the foregoing acceleration right may not be exercised in a manner that causes the outstanding Principal at any time to be less than the prevailing liability cap, as determined in accordance with Part 1 of Schedule 9 of the SPA (the “**Retained Amount**”). Thereafter, on each date on which the liability cap falls in accordance with Part 1 of Schedule 9 of the SPA, and if Seller has exercised the foregoing acceleration right, the Company shall forthwith pay to the Seller the difference between the Retained Amount and the prevailing liability cap.

(b) Notwithstanding any other provision in this Note, the Seller’s rights under paragraph (a) above may only be exercised in accordance with the Seller Subordination Agreement.

6. Amendments to the Credit Agreement

(a) Subject to paragraph (b) below, the Company shall not, without the written consent of the Seller agree to any amendment of any term of the Credit Agreement, except for an amendment which:

- (i) is procedural or administrative in nature; or
- (ii) does not result in the Company being subjected to more onerous obligations than those existing at the date hereof or which would otherwise prejudice the Seller’s rights under this Note.

(b) If:

- (i) an Event of Default has been declared (other than in respect of a matter referred to in Clause 20.3(b) (Breach of other obligations) under the Credit Agreement) and is outstanding under the Credit Agreement; or
- (ii) an Event of Default has been declared in respect of a matter referred to in Clause 20.3(b) (Breach of other obligations) under the Credit Agreement and the Facility Agent has taken action to accelerate the Senior Obligations in respect of such an Event of Default,

the Company may agree to any amendment of any term of the Credit Agreement without the consent of the Seller.

7. No set-off, counterclaim, deduction or withholding

All sums payable under this Note shall be paid in full without set-off or counterclaiming for any reason and without deduction of or withholding for any taxes, duties levies, imposts or charges of any nature other than as contemplated in paragraphs 3(c), 4 and 5 hereof.

8. Waiver

The Company hereby waives demand, protest and notice of demand, protest and nonpayment and consent to any and all renewals and extensions of the time of payment under this Note.

9. Assignability

Neither the Seller nor the Company may assign, transfer, endorse or in any other way alienate any of its rights under this Note whether in whole or in part.

10. Governing Law and Dispute Resolution

This Note is governed by the laws of the Hong Kong Special Administrative Region of the People' s Republic of China. Any dispute arising under this Note shall be resolved in accordance with Clause 29 of the SPA.

MERIX CAYMANS TRADING COMPANY LIMITED

Name: _____
Title: _____

SCHEDULE 9

LIABILITY CAP

PART 1

LIABILITY CAP IN RESPECT OF FUNDAMENTAL WARRANTY CLAIMS

Column (1)	Column (2)			
	Liability cap as at the respective date set out in sub-columns (a) to (d) below (US\$ million)			
	(a) Completion Date to 30 September 2006	(b) 1 October 2006 to 28 February 2007	(c) 1 March 2007 to 30 September 2007	(d) On or after 1 October 2007
Total Consideration (US\$ million)				
128	24	16	6	0
Less than 128 but not less than 127	24 - (128 - Total Consideration)	16 - (128 - Total Consideration)	6	0
Less than 127 but not less than 126	23 - (127 - Total Consideration)	15	6	0
Less than 126 but not less than 125	22 - (126 - Total Consideration)	15 - (126 - Total Consideration)	6	0
Less than 125 but not less than 124	21 - (125 - Total Consideration)	14	6	0
Less than 124 but not less than 123	20 - (124 - Total Consideration)	14 - (124 - Total Consideration)	6	0
Less than 123 but not less than 122	19 - (123 - Total Consideration)	13	6	0
Less than 122 but not less than 121	18 - (122 - Total Consideration)	13 - (122 - Total Consideration)	6	0
Less than 121 but not less than 120	17 - (121 - Total Consideration)	12	6	0
Less than 120 but not less than 119	16 - (120 - Total Consideration)	12 - (120 - Total Consideration)	6	0
Less than 119 but not less than 118	15 - (119 - Total Consideration)	11	6	0

Less than 118 but not less than 117	14 - (118 - Total Consideration)	11 - (118 - Total Consideration)	6	0
Less than 117 but not less than 116	13 - (117 - Total Consideration)	10	6	0
Less than 116 but not less than 115	12 - (116 - Total Consideration)	10 - (116 - Total Consideration)	6	0

PART 2

LIABILITY CAP IN RESPECT OF ALL RELEVANT CLAIMS OTHER THAN FUNDAMENTAL WARRANTY CLAIMS

Column (1)	Column (2)		
	Liability cap as at the respective date set out in sub-columns (a) to (c) below (US\$ million)		
	(a) Completion Date to 30 September 2006	(b) 1 October 2006 to 28 February 2007	(c) On or after 1 March 2007
Total Consideration (US\$ million)	18	10	0
128			
Less than 128 but not less than 127	18 - (128 - Total Consideration)	10 - (128 - Total Consideration)	0
Less than 127 but not less than 126	17 - (127 - Total Consideration)	9	0
Less than 126 but not less than 125	16 - (126 - Total Consideration)	9 - (126 - Total Consideration)	0
Less than 125 but not less than 124	15 - (125 - Total Consideration)	8	0
Less than 124 but not less than 123	14 - (124 - Total Consideration)	8 - (124 - Total Consideration)	0
Less than 123 but not less than 122	13 - (123 - Total Consideration)	7	0
Less than 122 but not less than 121	12 - (122 - Total Consideration)	7 - (122 - Total Consideration)	0
Less than 121 but not less than 120	11 - (121 - Total Consideration)	6	0
Less than 120 but not less than 119	10 - (120 - Total Consideration)	6 - (120 - Total Consideration)	0
Less than 119 but not less than 118	9 - (119 - Total Consideration)	5	0
Less than 118 but not less than 117	8 - (118 - Total Consideration), subject to a minimum of 7.5	5 - (118 - Total Consideration)	0
Less than 117 but not less than 116	7.5	4	0

Less than 116 but not less than 115

7.5

4 - (116 - Total
Consideration)

0

100

SCHEDULE 10

WORKING CAPITAL

- (a) net Accounts receivable of the Group, net of allowances for doubtful accounts; plus
- (b) net inventory (as defined below) of the Group, net of allowances for obsolescence; plus
- (c) other current assets of the Group, excluding cash and bank balances and, to the extent that such items have been included in relation to paragraphs (a) or (b) above, accounts receivable and inventory; minus
- (d) accounts payable of the Group, excluding accounts payable related to debt restructuring expenses; minus
- (e) other current liabilities of the Group which shall exclude (i) Borrowings and related interest payable, and (ii) RMB5,915,133, being the amount payable to 惠州市德賽集團有限公司 (Desay) pursuant to the contribution of the land use right agreement dated 18 November 2004 between Eastern Pacific Circuits Investments (Singapore) Pte Limited, 惠州市德賽集團有限公司 (Desay) and Eastern Pacific Circuits (Huiyang) Ltd 瑞花電路 (惠陽) 有限公司 in respect of the transfer by 惠州市德賽集團有限公司 (Desay) of the land to Eastern Pacific Circuits (Huiyang) Ltd, and (iii) accounts payable to the extent that such items have been included in relation to paragraph (d) above, and (iv) that portion of the Minority Dividend payable by Eastern Pacific Circuits (Huizhou) Ltd to 惠州市德賽工業發展有限公司; minus
- (f) provision for taxes of the EPCI HK Group and the EPCI Singapore Group.

For the purposes of **paragraph (b)** of this **Schedule 10**, “**inventory**” means all raw materials, work-in-progress, and finished goods held, used or owned by the Group.

SCHEDULE 11

EPCI HK GROUP

Part A

EPCI HK

(Incorporated in Hong Kong)

Company No.

: 21934

Date of Incorporation

: 3 November 1970

Business Registration No.

: 03108346

Registered Office

: 1401 Hutchison House, 10 Harcourt Road, Hong Kong

Authorized Share Capital

: HK\$2,000,000.00 divided into 2,000,000 shares of HK\$1.00 each

Issued Share Capital

: Same as above

Shareholders

:

No. of Shares

1. Eastern Pacific Circuits (Cayman) Limited

1,999,999

2. Eastern Pacific Circuits Limited (nominee shareholder for Eastern Pacific Circuits (Cayman) Limited

1

Directors

:

1. Kung Yun King

2. Gerard William Rodrigues

3. Tsang Ki Lo

Secretary

: B. & McK. Nominees Limited

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Part B

Eastern Pacific Circuits (Dongguan) Ltd.

Nature	:	Manufacture of printed circuits boards
	:	
Date of Establishment	:	May 13, 1993
	:	
Registered Office	:	Hing Yu Industrial District, Tongxia Town, Dongguan City, Guangdong Province, PRC.
	:	中國 廣東省 東莞市 塘廈 鎮宏業工業區
	:	
Duration of operation	:	11.5 years
	:	
Total Investment	:	HKD34,000,000
	:	
Registered Capital	:	HKD34,000,000
	:	
Joint Venture Partners & equity ratio	:	東莞市塘廈鎮經濟發展總公司 (14.71%)
	:	Eastern Pacific Circuits Investments Limited (85.29%)
	:	
Director	:	KUNG Yun King, Rodrigues, Gerard William, Joseph TSANG, 華軍，羅立凡，高禮城
	:	
Executive Director and Legal Representative	:	KUNG Yun King

Lomber (Huizhou) Limited

Nature	: Manufacture of printed circuits boards
Date of Establishment	: May 14, 1988
Registered Office	: Gu Tang Au Industrial District, Huizhou City Guangdong Province, PRC 中國 廣東省 惠州市 古塘坳工業區
Duration of operation	: 16.5 years
Total Investment	: US\$1,500,000
Registered Capital	: US\$1,500,000
Joint Venture Partners & equity ratio	: 惠州市東江工業總公司 (10%) Eastern Pacific Circuits Investments Limited (90%)
Director	: KUNG Yun King, Rodrigues, Gerard William, Joseph TSANG, 華軍, 張蘇, 顧鎮平
Executive Director and Legal Representative	: KUNG Yun King

SCHEDULE 12

EPCI SINGAPORE GROUP

Part A

EPCI Singapore

(Incorporated in Singapore)

Company Registration No.	: 199704856Z	
Date of Incorporation	: 12 July 1997	
Business Registration No.	: Not Applicable	
Registered Office	: 1 Temasek Avenue #27-01 Millenia Tower Singapore 039192	
Authorized Share Capital	: SGD\$100,000.00 divided into 100,000 ordinary shares of SGD\$1.00 each	
Issued Share Capital	: SGD\$2.00 divided into 2 ordinary shares of SGD\$1.00 each	
Shareholders		No. of Shares
	Eastern Pacific Circuits Limited	2
Directors	1. Ng Siu Leung	
	2. Kung Yun King	
	3. Gerard William Rodrigues	
	4. Tsang Ki Lo	

Secretarial Agent : Abogado Pte Ltd, associated with Baker & McKenzie.Wong & Leow

Company Secretaries :
1. Tang Ai Ai (Mrs Wong Ai Ai)

2. Anthony Anne Catharine

Part B

Eastern Pacific Circuits (Huiyang) Limited

Nature	:	Manufacture of printed circuits boards
Date of Establishment	:	August 25, 2000
Registered Office	:	23 Yin Ling Rd., The 3rd Ind. District, Chen Jiang Town, Huizhou City, Guangdong Province, PRC. 中國 廣東省 惠州市 陳江鎮 德賽第三工業區 銀嶺 路 23 號
Duration of operation	:	4.5 years
Total Investment	:	USD29,980,000
Registered Capital	:	USD12,990,000
Joint Venture Partners & equity ratio	:	惠州市德賽集團有限公司 (5%) Eastern Pacific Circuits Investments (Singapore) Pte Ltd (95%)
Director	:	KUNG Yun King, Rodrigues, Gerard William, Joseph TSANG, TONY Yun Kong, 姜捷, 王廣軍
Executive Director and Legal Representative	:	Rodrigues, Gerard William

Eastern Pacific Circuits (Huizhou) Limited

Nature	:	Manufacture of printed circuits boards
Date of Establishment	:	November 8, 1988
Registered Office	:	Gu Tang Au Industrial District, Huizhou City Guangdong Province, PRC 中國 廣東省 惠州市 古塘坳工業區
Duration of operation	:	16 years
Total Investment	:	US\$30,000,000
Registered Capital	:	US\$16,700,000
Joint Venture Partners & equity ratio	:	惠州市德賽工業發展有限公司 (15%) Eastern Pacific Circuits Investments (Singapore) Pte Ltd (85%)
Director	:	KUNG Yun King, Rodrigues, Gerard William, Joseph TSANG, 鍾桂利, 姜捷, 王廣軍
Executive Director and Legal Representative	:	Rodrigues, Gerard William

SCHEDULE 13

TAX DEED

DATED _____ 2005

Eastern Pacific Circuits Holdings Limited

- and -

Merix Corporation

-and -

Eastern Pacific Circuits Investments Limited

-and -

Eastern Pacific Circuits Investments (Singapore) Pte Limited

TAX DEED

JONES DAY

Solicitors and International Lawyers

31st Floor, Edinburgh Tower

The Landmark

No.15 Queen' s Road Central

Hong Kong

Telephone No.: (852) 2526-6895

DATE: 2005

PARTIES:

- (1) **Eastern Pacific Circuits Holdings Limited** (the “Covenantor”);
 - (2) **Merix Corporation** (the “Covenantee”);
 - (3) **Eastern Pacific Circuits Investments Limited**; and
 - (4) **Eastern Pacific Circuits Investments (Singapore) Pte Limited**
- ((3) and (4) together the “Companies”).

RECITAL:

This Deed is supplemental to the master sale and purchase agreement (“**Sale and Purchase Agreement**”) dated [●], 2005 and made between, inter alia, the Covenantor and the Covenantee.

THIS DEED WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 The definitions contained in the Sale and Purchase Agreement and those provisions of the Sale and Purchase Agreement dealing with interpretation shall be deemed to be incorporated herein. The following additional words and expressions shall, unless the context otherwise requires, have the following meanings in this Deed:

“Auditors”	the auditors for the time being of the Covenantee (acting as experts not as arbitrators);
“claim”	includes (without limitation) any assessment, claim, notice, demand, letter, direction, counterclaim or other document issued or action taken by or on behalf of any fiscal, revenue or other authority or official in the PRC, Hong Kong and Singapore from which it appears that any of the Companies is liable to make any payment or increased or further payment of Tax or is denied any Relief from Taxation;
“event”	includes (without limitation) the death of any person, any act, transaction or omission (whether any of the Companies is a party thereto or not) and, but without limitation, any distribution, failure to distribute, acquisition, disposal, transfer, payment, loan or advance and reference to any event on or before the Completion Date; and
“Relief from Taxation”	any loss, relief, allowance, set-off, deduction, right to repayment or credit granted by or available pursuant to any legislation or otherwise in respect of Tax.

1.2 Any reference to income, profits or gains earned, accrued or received shall include income, profits or gains deemed to have been or treated as or regarded as earned, accrued or received.

2. INDEMNITY

2.1 In consideration of the Sale and Purchase Agreement and of the Covenantee completing the same the Covenantor hereby covenants with and undertakes to the Covenantee and each of the Companies to indemnify and keep indemnified the Covenantee and (as a separate covenant) each of the Companies on a continuing basis for:

- (a) the amount of any claim for Tax which has been made or may hereafter be made against the Covenantee or any of the Companies or the relevant Buyer' s Group Company which has acquired the HK Shares or the Singapore Shares (as the case may be) wholly or partly in respect of or in consequence of any event occurring or any income, profits or gains earned, accrued or received by any of the Companies on or before Completion;
- (b) any claim for Tax made against the Covenantee or any of the Companies or the relevant Buyer' s Group Company which has acquired the HK Shares or the Singapore Shares (as the case may be) arising on the death of any person under section 35 of the Estate Duty Ordinance (Cap.III) or any relevant PRC or Singapore tax legislation at any time by reason of any transfer of any property to the Covenantee or any of the Companies made or deemed to have been made on or before Completion; and
- (c) any reasonable costs and expenses incurred by the Covenantee or any of the Companies or the relevant Buyer' s Group Company which has acquired the HK Shares or the Singapore Shares (as the case may be) in connection with any such claim for Tax or in taking or defending any action under this Deed.

3. EXCLUSIONS AND LIMITATIONS

3.1 The Seller' s liability pursuant to the indemnity given by clause 2 shall be limited or excluded, as the case may be, as set out in schedule 4 of the Sale and Purchase Agreement and the indemnity given in clause 2 does not cover any amount of Tax:

- (a) to the extent that provision or reserve in respect thereof was made in the Financial Statements or to the extent that payment or discharge of such liability has been duly reflected in the Financial Statements;

- (b) to the extent that liability therefor arises or is increased as a result of any increase in rates of Tax or changes made in the relevant Tax Law in the PRC, Hong Kong and Singapore made after Completion with retrospective effect;
- (c) to the extent that the liability for Tax would not have arisen but for an act, a failure or omission on the part of the Covenantee or any other Buyer' s Group Company before, on and after Completion or an act, a failure or omission on the part of the Companies after Completion. For the avoidance of doubt, any action taken by the Covenantee or any other Buyer' s Group Company in compliance with its respective obligations under the Sale and Purchase Agreement and this Deed including without limitation any consent given by the Covenantee or any other Buyer' s Group Company under the Sale and Purchase Agreement and this Deed shall not constitute an act that has caused any liability for Tax to arise under this sub-clause 3(c); or
- (d) to the extent that the liability for Tax (including interest and penalties) arises which should have been borne by the Buyer pursuant to clause 20.1 of the Sale and Purchase Agreement.

4. OBLIGATIONS OF THE COVENANTEE

If the Covenantee shall becomes aware of any claim for Tax which it appears to the Covenantee that the Covenantor is or may become liable to make any payment under this Deed, it shall as soon as practicable give written notice to the Covenantor and shall take such action as the Covenantor may reasonably request to dispute, resist or compromise the liability. Neither the Covenantor nor the Covenantee shall in any event be required to take any steps which would require any admission of guilt or liability relating to matters connected with the claim in question.

5. AUDITORS' CERTIFICATES

If any of the Companies shall procure a certificate from the Auditors certifying the amount of any such claim for Tax as is mentioned in clause 2 and stating that in the opinion of the Auditors none of the exceptions from liability listed in clause 3 are of application to the claim in question then such certificate shall be final and binding upon the Covenantor and upon receipt of such certificate the Covenantor shall forthwith pay to any of the Companies the amount so certified but the Companies shall reimburse or credit the Covenantor with any sum (less the expenses of recovering the same) which is subsequently recovered from a third party or repaid to any of the Companies in connection with such liability.

6. **DEMANDS**

The liabilities of the Covenantor under this indemnity shall be payable in full within ten (10) business days of written demand from any of the Companies or on the date which such payment is due to be made to the relevant authority, whichever is the later.

7. **WAIVER**

No failure to exercise and no delay in exercising on the part of any of the Covenantee or any of the Companies any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies otherwise provided by law.

8. **NOTICES**

8.1 Delivery

All notices demands or other communications which are required to be given under this Deed shall be in writing and shall be sent to:

(a) in the case of **Covenantor**:

Attention : Ng Lak Chuan
Address Suite 2804, 28th Floor
One Exchange Square
8 Connaught Place
: Central, Hong Kong
Facsimile : 852 3102 8321

(b) in the case of the **Covenantee** or any of the **Companies**:

Attention : Mark R. Hollinger
Address 1521 Poplar Lane
P.O.Box 3000, F4-234
Forest Grove OR 97116
: United States of America
Facsimile : 1 503 357 1504

or to such other address or facsimile number or marked for the attention of such other person as the recipient may designate by notice given in accordance with the provisions of this clause.

8.2 Receipt

Any such notice may be delivered personally or by prepaid post or sent by facsimile transmission and shall be deemed to have been effectively served:

- (a) on the day of receipt, where any personally delivered letter or facsimile message is received on any business day before or during normal working hours;
- (b) on the following business day, where any personally delivered letter or facsimile message is received either on any business day after normal working hours or on any day which is not a business day;
- (c) on the second business day following the day of posting, upon despatch from within Hong Kong of any posted letter to the address of a recipient in Hong Kong, unless actually received sooner; or
- (d) on the seventh business day following the day of posting, upon despatch from within Hong Kong of any posted letter to the address of an overseas recipient (and vice-versa), unless actually received sooner.

9. GENERAL

- 9.1 The parties agree that the execution of the Agreement may be effected by the exchange of facsimile signature pages, with the exchange of the executed originals as soon as reasonably possible thereafter.

10. GOVERNING LAW AND SERVICE AGENT

- 10.1 This Deed is governed by and is to be construed in accordance with the laws of Hong Kong and the parties hereby agree to submit to the non-exclusive jurisdiction of the courts of Hong Kong.
- 10.2 The Covenantor hereby appoints Baker & McKenzie of 1401 Hutchison House, 10 Harcourt Road, Central, Hong Kong as its agent to receive and acknowledge on its behalf service of any writ, summons, order, judgment or other notice of legal process in Hong Kong. If for any reason the agent named above (or its successor) no longer serves as the agent of the Covenantor for this purpose, the Covenantor shall promptly appoint a successor agent and notify the other parties hereto. The Covenantor agrees that any such legal process shall be sufficiently served on it if delivered to such agent for service at its addresses for the time being in Hong Kong whether or not such agent gives notice thereof to the other parties.

11. COUNTERPARTS

This Deed may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original but all of which shall together constitute one and the same instrument.

12. INCONSISTENCY

Where there is any inconsistency between clause 20 of the Sale and Purchase Agreement and this Deed, clause 20 of the Sale and Purchase Agreement prevails to the extent of the inconsistency.

EXECUTED by the parties or their duly authorised representatives.

SEALED with the Common Seal)

of **EASTERN PACIFIC CIRCUITS**)

HOLDINGS LIMITED and)

SIGNED by)

in the presence of:-)

SIGNED by)

for and on behalf of)

MERIX CORPORATION)

in the presence of :-)

SIGNED by)

for and on behalf of)

EASTERN PACIFIC CIRCUITS)

INVESTMENTS LIMITED)

in the presence of :-)

SIGNED by)

for and on behalf of **EASTERN PACIFIC**)

CIRCUITS INVESTMENTS)

(SINGAPORE) PTE LIMITED)

in the presence of :-)

Part A

Determination of Actual Adjusted 2005 EBITDA

1. In determining the Actual Adjusted 2005 EBITDA and in preparing the Earnout Statement in accordance in accordance with **clause 8** of the Agreement the Buyer' s Auditors shall make the following adjustments.
2. No account shall be taken of:
 - (a) the expense of the RMB5,915,133 being the amount payable to **惠州市德賽集團有限公司** (Desay) pursuant to the contribution of the land use right agreement dated 18 November 2004 between Eastern Pacific Circuits Investments (Singapore) Pte Limited; **惠州市德賽集團有限公司** (Desay) and Eastern Pacific Circuits (Huiyang) Ltd (**瑞花電路 (惠陽) 有限公司**);
 - (b) on the mutual understanding that neither the Seller nor the Seller' s parent companies have charged management charges to any member of the Seller' s Group, any management charges payable to any member of the Buyer' s Group (unless such charges relate to employees who are seconded on a full-time basis to any Buyer' s Group Company which has acquired a Business or to any member of the EPCI HK Group or the EPCI Singapore Group and that such charges are on arm' s length terms) and any cost overheads charged by or payable to any member of the Buyer' s Group in excess of US\$ 75,000;
 - (c) any costs incurred in relation to any project development work, research and/or development activities commenced or expanded by any Buyer' s Group Company which has acquired a Business or by any member of the EPCI HK Group or the EPCI Singapore Group after Completion to the extent that the total costs incurred exceed the amount spent during 2004 on project development, research and/or development activities by more than 5 percent;
 - (d) any liability or loss incurred outside the ordinary course of business and any expenses related thereto incurred after and attributable to events occurring after the Completion Date, save to the extent that the Seller has agreed that such liability or loss shall be taken into account in calculating the Actual Adjusted 2005 EBITDA;
 - (e) any net loss (after adjustment for taxation) attributable to any company or business acquired by any member of the Buyer' s Group after the Completion Date;

-
- (f) any costs associated with the premiums that may arise and become payable as a result of or in connection with the assignment of the Hong Kong Lease and the assignment of any leasehold interests of the Business Sellers in connection with the transactions contemplated pursuant to this Agreement;
 - (g) the amount of the stamp duty payable on the transfer of the HK Shares and the Singapore Shares;
 - (h) the costs of the completion audit referred to in **clause 6** of this Agreement, the costs of preparing the Pro-forma Accounts and the determination of the Earnout Statement referred to in **clause 8** of this Agreement, the fees of the Escrow Agent and advisory fees (including legal and accounting fees) incurred in connection with the transactions contemplated by this Agreement; and
 - (i) any costs arising from the restructuring of the Borrowings and the Security.
3. The following items shall be added back to the Actual Adjusted 2005 EBITDA:
- (a) the net profit (after adjustment for taxation) arising on the sale after the Completion Date of any items classified as fixed assets or as know-how or intellectual property rights;
 - (b) if, in relation to any Relevant Claim arising from any fact, matter, event or circumstance which has occurred prior to 31 December 2004, the amount that has been settled or otherwise determined in respect of any Relevant Claim or the amount of the loss suffered or incurred (or alleged to be suffered or incurred) by the relevant Buyer' s Group Company in respect of which such Relevant Claim is made, is required to be reflected in the financial statements in respect of the calendar year 2005 of that member of the Buyer' s Group in accordance with the accounting principles of that Buyer' s Group Company, the amount settled or otherwise determined in respect of such Relevant Claim or the amount of such loss, as the case may be, shall be added back to the Actual Adjusted 2005 EBITDA.
 - (c) If, in relation to a Relevant Claim arising from any fact, matter, event or circumstance which occurs during the period from 1 January 2005 up to and including 31 December 2005, the Buyer shall take the option referred to in **clause 8.10(b)(2)**, and the amount that has been settled or determined in respect of any Relevant Claim or the amount of the loss suffered or incurred (or alleged to be suffered or incurred) by the relevant Buyer' s Group Company in respect of which such Relevant Claim is made, is required to be reflected in the financial statements in respect of the calendar year 2005 of the relevant member of the Buyer' s Group in accordance with the accounting principles of that Buyer' s Group Company, the amount settled or otherwise determined in respect of such Relevant Claim or the amount of such loss, as the case may be, shall be added back to the Actual Adjusted 2005 EBITDA.

Operation of the business during the Relevant Period

1. The Seller acknowledges that (i) upon Completion, Buyer has the right to operate the Business, the EPCI HK Group and the EPCI Singapore Group (collectively, the “**Acquired Businesses**”) and Buyer’s other businesses in any way that Buyer deems appropriate in Buyer’s sole discretion, (ii) Buyer has no obligation to operate the Acquired Businesses in order to achieve any Actual Adjusted 2005 EBITDA amount or to maximise the amount of Actual Adjusted 2005 EBITDA, (iii) Buyer owes no fiduciary duty or express or implied duty to Seller, including any implied duty of good faith and fair dealing, and (iv) the parties solely intend the express provisions of this **schedule 14** to govern their contractual relationship with respect to the Actual Adjusted 2005 EBITDA amount.

The Seller hereby waives any fiduciary duty or express or implied duty of Buyer to the Seller, including any implied duty of good faith and fair dealing.

Notwithstanding the foregoing, the Buyer:

- (a) will not enter into any transaction or take or omit to take any action the principal purpose of which is: (i) to prejudice or adversely affect the Actual Adjusted 2005 EBITDA amount; or (ii) to avoid or minimise payment by the Buyer of the EBITDA Earnout Consideration;
- (b) will procure that, without the prior consent of the Seller, (i) no Buyer’s Group Company will transfer or dispose of any of the issued share capital of EPCI HK or EPCI Singapore or any other interest in EPCI HK or EPCI Singapore or their respective businesses or any part thereof; (ii) EPCI HK will not transfer or dispose of any of the issued share capital of Eastern Pacific Circuits (Dongguan) Ltd and/or Lomber (Huizhou) Limited or any other interest in Eastern Pacific Circuits (Dongguan) Ltd and/or Lomber (Huizhou) Limited or their respective businesses or any part thereof; and (iii) EPCI Singapore will not transfer or dispose of any of the issued share capital of Eastern Pacific Circuits (Huiyang) Limited and/or Eastern Pacific Circuits (Huizhou) Limited or any other interest in Eastern Pacific Circuits (Huiyang) Limited and/or Eastern Pacific Circuits (Huizhou) Limited or their respective businesses or any part thereof. For the purpose of this paragraph, “disposal” shall include (but not be limited to) the grant of any option in respect of such shares or business or part thereof;
- (b) will procure that, without the prior consent of the Seller, no Buyer’s Group Company which has acquired a Business, will transfer or dispose of any Business or any part thereof and for this purpose “disposal” shall include (but not be limited to) the grant of any option in respect of Business or part thereof; and

-
- (c) will procure that no resolution will be passed or proposed for a member' s voluntary winding-up of: (i) any Buyer' s Group Company which has acquired a Business; or (ii) any member of the EPCI HK Group or the EPCI Singapore Group nor will (i) any Buyer' s Group Company which has acquired a Business; (ii) any shareholder of any member of the EPCI HK Group or the EPCI Singapore Group present a petition for an order for the winding-up of (i) any member of the Buyer' s which has acquired a Business; (ii) any shareholder of any member of the EPCI HK Group or the EPCI Singapore Group (as the case may be).

LOAN AND SECURITY AGREEMENT

by and among

MERIX CORPORATION
MERIX SAN JOSE, INC.
as Borrowers

and

MERIX NEVADA, INC.
MERIX ASIA, INC.
and
DATA CIRCUIT HOLDINGS, INC.
as Guarantors

THE LENDERS AND ISSUING BANK FROM TIME TO TIME PARTY HERETO

WACHOVIA CAPITAL FINANCE CORPORATION (WESTERN)
as Administrative Agent

BANK OF AMERICA, N.A.
as Syndication Agent

WACHOVIA CAPITAL MARKETS, LLC
as Sole Lead Arranger, Manager and Bookrunner

Dated: September 28, 2005

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LOAN AND SECURITY AGREEMENT

This Loan and Security Agreement dated September 28, 2005 is entered into by and among Merix Corporation, an Oregon corporation (“Parent”) and Merix San Jose, Inc., a California corporation (“Merix San Jose” and together with Parent, each individually a “Borrower” and collectively, “Borrowers” as hereinafter further defined), Merix Nevada, Inc., an Oregon corporation (“Nevada”), Merix Asia, Inc., an Oregon corporation (“Asia”), Data Circuit Holdings, Inc., a Delaware corporation (“DC Holdings”, and together with Nevada and Asia, each individually a “Guarantor” and collectively, “Guarantors” as hereinafter further defined), the parties hereto from time to time as lenders, whether by execution of this Agreement or an Assignment and Acceptance (each individually, a “Lender” and collectively, “Lenders” as hereinafter further defined), Bank of America, N.A., in its capacity as syndication agent (in such capacity, “Syndication Agent”) and Wachovia Capital Finance Corporation (Western), a California corporation, in its capacity as administrative and collateral agent for Lenders (in such capacity, “Agent” as hereinafter further defined).

W I T N E S S E T H:

WHEREAS, Borrowers and Guarantors have requested that Agent and Lenders enter into financing arrangements with Borrowers pursuant to which Lenders may make loans and provide other financial accommodations to Borrowers; and

WHEREAS, each Lender is willing to agree (severally and not jointly) to make such loans and provide such financial accommodations to Borrowers on a pro rata basis according to its Commitment (as defined below) on the terms and conditions set forth herein and Agent is willing to act as agent for Lenders on the terms and conditions set forth herein and the other Financing Agreements;

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

SECTION 1. DEFINITIONS

For purposes of this Agreement, the following terms shall have the respective meanings given to them below:

1.1 “Accounts” shall mean, as to each Borrower and Guarantor, all present and future rights of such Borrower and Guarantor to payment of a monetary obligation, whether or not earned by performance, which is not evidenced by chattel paper or an instrument, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (b) for services rendered or to be rendered, (c) for a secondary obligation incurred or to be incurred, or (d) arising out of the use of a credit or charge card or information contained on or for use with the card.

1.2 “Adjusted Eurodollar Rate” shall mean, with respect to each Interest Period for any Eurodollar Rate Loan comprising part of the same borrowing (including conversions, extensions and renewals), the rate per annum determined by dividing (a) the London Interbank Offered Rate

for such Interest Period by (b) a percentage equal to: (i) one (1) minus (ii) the Reserve Percentage. For purposes hereof, "Reserve Percentage" shall mean for any day, that percentage (expressed as a decimal) which is in effect from time to time under Regulation D of the Board of Governors of the Federal Reserve System (or any successor), as such regulation may be amended from time to time or any successor regulation, as the maximum reserve requirement (including, without limitation, any basic, supplemental, emergency, special, or marginal reserves) applicable with respect to Eurocurrency liabilities as that term is defined in Regulation D (or against any other category of liabilities that includes deposits by reference to which the interest rate of Eurodollar Loans is determined), whether or not any Lender has any Eurocurrency liabilities subject to such reserve requirement at that time. Eurodollar Loans shall be deemed to constitute Eurocurrency liabilities and as such shall be deemed subject to reserve requirements without benefits of credits for proration, exceptions or offsets that may be available from time to time to a Lender. The Adjusted Eurodollar Rate shall be adjusted automatically on and as of the effective date of any change in the Reserve Percentage.

1.3 "Administrative Borrower" shall mean Merix Corporation, an Oregon corporation in its capacity as Administrative Borrower on behalf of itself and the other Borrowers pursuant to Section 6.8 hereof and its successors and assigns in such capacity.

1.4 "Affiliate" shall mean, with respect to a specified Person, any other Person which directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with such Person, and without limiting the generality of the foregoing, includes (a) any Person which beneficially owns or holds five (5%) percent or more of any class of Voting Stock of such Person or other equity interests in such Person, (b) any Person of which such Person beneficially owns or holds five (5%) percent or more of any class of Voting Stock or in which such Person beneficially owns or holds five (5%) percent or more of the equity interests and (c) any director or executive officer of such Person. For the purposes of this definition, the term "control" (including with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Stock, by agreement or otherwise.

1.5 "Agent" shall mean Wachovia Capital Finance Corporation (Western), in its capacity as agent on behalf of Lenders pursuant to the terms hereof and any replacement or successor agent hereunder.

1.6 "Agent Payment Account" shall mean account no. 5000000030321 of Agent at Wachovia Bank, National Association, or such other account of Agent as Agent may from time to time designate to Administrative Borrower as the Agent Payment Account for purposes of this Agreement and the other Financing Agreements.

1.7 "Applicable L/C Rate" shall mean the applicable percentage set forth under the heading "Applicable L/C Rate" in the table contained in the definition of "Applicable Margin."

1.8 "Applicable Margin" shall mean, at any time, as to the Interest Rate for Prime Rate Loans and the Interest Rate for Eurodollar Rate Loans, the applicable percentage (on a per

annum basis) set forth below if the Quarterly Average Excess Availability for the immediately preceding calendar quarter is at or within the amounts indicated for such percentage:

Quarterly Average Excess Availability	Applicable Margin for Prime Rate Loans		Applicable Margin for Eurodollar Rate Loans		Applicable L/C Rate	
	Revolving Loans	Term Loans	Revolving Loans	Term Loans		
	Tier 1	\$45,000,000 or greater	0	.25 %		1.75 %
Tier 2	Less than \$45,000,000 and greater than or equal to \$30,000,000	0	0.50 %	2.00 %	2.50 %	2.00 %
Tier 3	Less than \$30,000,000 and greater than or equal to \$15,000,000	0.25 %	0.75 %	2.25 %	2.75 %	2.25 %
Tier 4	Less than \$15,000,000	0.50 %	1.00 %	2.50 %	3.00 %	2.50 %

provided, that, (i) the Applicable Margin shall be calculated and established once each calendar quarter and shall remain in effect until adjusted thereafter after the end of such calendar quarter, (ii) each adjustment of the Applicable Margin shall be effective as of the first day of a calendar quarter based on the Quarterly Average Excess Availability for the immediately preceding calendar quarter, and (iii) the Applicable Margin until the last day of the second (2nd) full calendar quarter after the date hereof shall be the amount for Tier 2 set forth above.

1.9 “Approved Foreign Account Debtor” shall mean an account debtor in respect of an Eligible Account approved by Agent (a) with its chief executive office or principal place of business located outside of the United States of America, the United Kingdom or Canada, and (b) that is either (i) a direct or indirect Subsidiary of a corporation organized under the laws of a State of the United States of America with its chief executive office and principal place of business within the United States of America, which Agent determines is satisfactory or (ii) Nokia Corporation and its Subsidiaries or (iii) a Subsidiary of Celestica Corporation.

1.10 “Approved Fund” shall mean, as to any Lender, any Person (other than a natural person) that is an Eligible Transferee engaged in making, purchasing, holding or investing in bank loans or similar extensions of credit in the ordinary course of its business and that is administered or managed by such Lender, or an Affiliate of such Lender, or an entity or an Affiliate of an entity that administers or manages such Lender.

1.11 "Assignment and Acceptance" shall mean an Assignment and Acceptance substantially in the form of Exhibit A attached hereto (with blanks appropriately completed) delivered to Agent in connection with an assignment of a Lender's interest hereunder in accordance with the provisions of Section 13.7 hereof.

1.12 "Bank Product Provider" shall mean any Lender, Affiliate of any Lender or other financial institution (in each case as to any Lender, Affiliate or other financial institution to the extent approved by Agent) that provides any Bank Products to Borrowers or Guarantors. For purposes hereof, Syndication Agent and its Affiliates are approved by Agent.

1.13 "Bank Products" shall mean any one or more of the following types or services or facilities provided to a Borrower or Guarantor by Agent or a Bank Product Provider: (a) credit cards or stored value cards or (b) cash management or related services, including (i) the automated clearinghouse transfer of funds for the account of a Borrower pursuant to agreement or overdraft for any accounts of Borrowers maintained at Agent or any Bank Product Provider that are subject to the control of Agent pursuant to any Deposit Account Control Agreement to which Agent, such Affiliate of Agent, Lender or Affiliate of Lender is a party, as applicable, and (ii) controlled disbursement services and (iii) Hedge Agreements if and to the extent permitted hereunder. Any of the foregoing shall only be included in the definition of the term "Bank Products" to the extent that the Lender, its Affiliate or the other financial institution has been approved by Agent. For purposes hereof, Syndication Agent and its Affiliates are approved by Agent.

1.14 "Blocked Accounts" shall have the meaning set forth in Section 6.3 hereof.

1.15 "Borrowers" shall mean, collectively, the following (together with their respective successors and assigns): (a) Merix Corporation, an Oregon corporation; (b) Merix San Jose, Inc., a California corporation; and (c) any other Person that at any time after the date hereof becomes a Borrower; each sometimes being referred to herein individually as a "Borrower".

1.16 "Borrowing Base" shall mean, at any time the amount equal to:

(a) the sum of:

(i) eighty-five (85%) percent of the Eligible Accounts in respect of which the account debtor is not an Approved Foreign Account Debtor, plus

(ii) the lesser of (A) eighty-five (85%) percent of the Eligible Accounts in respect of which the account debtor is an Approved Foreign Account Debtor, or (B) \$10,000,000 or (C) the amount equal to fifty (50%) percent of the sum of (1) the amount determined in accordance with clause (a)(i) of this definition plus (2) the lesser of the amount determined in accordance with clause (ii)(A) or clause (ii)(B) of this definition, plus

(iii) on and after the Inventory Availability Date, the lesser of:

(A) the Inventory Loan Limit, or

(B) the sum of:

(1) the lesser of seventy (70%) percent multiplied by the Value of the Eligible Finished Goods Inventory or ninety (90%) percent of the Net Recovery Percentage for such Eligible Inventory multiplied by the Value of such Eligible Inventory, plus

(2) the lesser of thirty-five (35%) percent multiplied by the Value of the Eligible Inventory of such Borrower consisting of raw materials (other than Eligible Gold Raw Material Inventory) or ninety (90%) percent of the Net Recovery Percentage for such Eligible Inventory multiplied by the Value of such Eligible Inventory, plus

(3) the lesser of seventy (70%) percent multiplied by the Value of the Eligible Gold Raw Material Inventory or ninety (90%) percent of the Net Recovery Percentage for such Eligible Inventory multiplied by the Value of such Eligible Inventory,

minus

(b) Reserves.

Notwithstanding anything to the contrary contained herein, in no event shall any Eligible Inventory be included in the calculation of the Borrowing Base unless and until the Inventory Availability Date. For purposes only of applying the Inventory Loan Limit, Agent may treat the then undrawn amounts of outstanding Letters of Credit for the purpose of purchasing Eligible Inventory as Revolving Loans to the extent Agent is in effect basing the issuance of the Letter of Credit on the Value of the Eligible Inventory being purchased with such Letter of Credit. In determining the actual amounts of such Letter of Credit to be so treated for purposes of the sublimit, the outstanding Revolving Loans and Reserves shall be attributed first to any components of the lending formulas set forth above that are not subject to such sublimit, before being attributed to the components of the lending formulas subject to such sublimit. The amounts of Eligible Inventory of a Borrower shall, at Agent's option, be determined based on the lesser of the amount of Inventory set forth in the general ledger of such Borrower or the perpetual inventory record maintained by such Borrower.

1.17 "Borrowing Base Certificate" shall mean a certificate substantially in the form of Exhibit B hereto, as such form may from time to time be modified by Agent in a manner consistent with the terms of this Agreement, which is duly completed (including all schedules thereto) and executed by the vice-president-finance, chief financial officer, treasurer, assistant treasurer, controller or other financial or senior officer of Administrative Borrower and delivered to Agent.

1.18 "Business Day" shall mean any day other than a Saturday, Sunday, or other day on which commercial banks are authorized or required to close under the laws of the State of California, New York or North Carolina, and a day on which Agent is open for the transaction of business, except that if a determination of a Business Day shall relate to any Eurodollar Rate Loans, the term Business Day shall also exclude any day on which banks are closed for dealings in dollar deposits in the London interbank market or other applicable Eurodollar Rate market.

1.19 "Capital Expenditures" shall mean, with respect to any Person for any period, the aggregate of all expenditures by such Person and its Subsidiaries during such period that in accordance with GAAP are or should be included in "property, plant and equipment" or in a

similar fixed asset account on its balance sheet, whether such expenditures are paid in cash or financed and including that portion of the obligations under Capital Leases that is capitalized on the balance sheet of such Person during such period.

1.20 "Capital Leases" shall mean, as applied to any Person, any lease of (or any agreement conveying the right to use) any property (whether real, personal or mixed) by such Person as lessee which in accordance with GAAP, is required to be reflected as a liability on the balance sheet of such Person.

1.21 "Capital Stock" shall mean, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated) of such Person's capital stock or partnership, limited liability company or other equity interests at any time outstanding, and any and all rights, warrants or options exchangeable for or convertible into such capital stock or other interests (but excluding any debt security that is exchangeable for or convertible into such capital stock).

1.22 "Cash Dominion Event" shall mean either (a) a Default or Event of Default shall exist or have occurred and is continuing or (b) the Excess Availability shall at any time be less than \$10,000,000; provided, that,

(i) a Cash Dominion Event shall be deemed to be continuing after the occurrence of either of the foregoing until terminated as provided in clauses (ii) and (iii) of this definition below,

(ii) at any time after Agent has first exercised its right under Section 6.3(c) hereof to notify the depository banks at which the Blocked Accounts are maintained to transfer funds in the Blocked Accounts to the Agent Payment Account after a Cash Dominion Event, in the event that the Excess Availability is equal to or greater than \$10,000,000 for any period of sixty (60) consecutive days and no Default or Event of Default shall exist or have occurred and be continuing, then upon the written request of Administrative Borrower, the Cash Dominion Event that was the basis for the exercise by Agent of such right shall be deemed to have terminated and no longer continuing,

(iii) if after any such termination of a Cash Dominion Event, a subsequent Cash Dominion Event shall occur, such subsequent Cash Dominion Event shall not be deemed to be terminated and no longer continuing prior to the date that is the first anniversary of the date of the later of an event described in clause (a) or (b) above and then only if the conditions set forth in clause (ii) above have been satisfied for the sixty (60) consecutive days immediately preceding the termination of such subsequent Cash Dominion Event.

1.23 "Cash Equivalents" shall mean, at any time, (a) any evidence of Indebtedness with a maturity date of ninety (90) days or less issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof; provided, that, the full faith and credit of the United States of America is pledged in support thereof; (b) certificates of deposit or bankers' acceptances with a maturity of ninety (90) days or less of any financial institution that is a member of the Federal Reserve System having combined capital and surplus and undivided profits of not less than \$1,000,000,000; (c) commercial paper (including variable

rate demand notes and taxable auction variable rate notes) with a maturity of ninety (90) days or less (or in the case of auction variable rate notes, with the next auction or a maturity within ninety (90) days or less) issued by a corporation (but not any Affiliate of a Borrower or Guarantor), or in the case of taxable auction variable rate notes, issued by a governmental education authority, in each case organized under the laws of any State of the United States of America or the District of Columbia and rated at least A-1 by Standard & Poor's Ratings Service, a division of The McGraw-Hill Companies, Inc. or at least P-1 by Moody's Investors Service, Inc.; (d) repurchase obligations with a term of not more than thirty (30) days for underlying securities of the types described in clause (a) above entered into with any financial institution having combined capital and surplus and undivided profits of not less than \$1,000,000,000; (e) repurchase agreements and reverse repurchase agreements relating to marketable direct obligations issued or unconditionally guaranteed by the United States of America or issued by any governmental agency thereof and backed by the full faith and credit of the United States of America, in each case maturing within ninety (90) days or less from the date of acquisition; provided, that, the terms of such agreements comply with the guidelines set forth in the Federal Financial Agreements of Depository Institutions with Securities Dealers and Others, as adopted by the Comptroller of the Currency on October 31, 1985; and (f) investments in money market funds and mutual funds which invest substantially all of their assets in securities of the types described in clauses (a) through (e) above.

1.24 "Change of Control" shall mean (a) the acquisition by any Person or group (as such term is used in Section 13(d)(3) of the Exchange Act) of more than thirty-five (35%) percent of beneficial ownership, directly or indirectly, of the voting power of the total outstanding Voting Stock of Parent or the Board of Directors of Parent; (b) during any period of two (2) consecutive years, individuals who at the beginning of such period constituted the Board of Directors of Parent (together with any new directors whose nomination for election by the stockholders of Parent was approved by a vote of at least a majority of the directors then still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the Board of Directors of Parent then still in office; or (c) the failure of Parent to own directly or indirectly one hundred (100%) percent of the voting power of the total outstanding Voting Stock of any other Borrower or Guarantor.

1.25 "Code" shall mean the Internal Revenue Code of 1986, together with all rules, regulations and interpretations thereunder or related thereto, all as amended and in effect from time to time.

1.26 "Collateral" shall have the meaning set forth in Section 5 hereof.

1.27 "Collateral Access Agreement" shall mean an agreement in writing, in form and substance satisfactory to Agent, from any lessor of premises to any Borrower or Guarantor, or any other person to whom any Collateral is consigned or who has custody, control or possession of any such Collateral or is otherwise the owner or operator of any premises on which any of such Collateral is located, in favor of Agent with respect to the Collateral at such premises or otherwise in the custody, control or possession of such lessor, consignee or other person.

1.28 "Commitment" shall mean, at any time, as to each Lender, the principal amount set forth below such Lender's signature on the signatures pages hereto designated as the Commitment or on Schedule 1 to the Assignment and Acceptance Agreement pursuant to which such Lender became a Lender hereunder in accordance with the provisions of Section 13.7 hereof, as the same may be adjusted from time to time in accordance with the terms hereof; sometimes being collectively referred to herein as "Commitments".

1.29 "Consolidated Net Income" shall mean, with respect to any Person for any period, the aggregate of the net income (loss) of such Person, for such period (excluding to the extent included therein any extraordinary and/or one time or unusual and non-recurring gains or any non-cash losses) after deducting all charges which should be deducted before arriving at the net income (loss) for such period and, without duplication, after deducting the Provision for Taxes for such period, all as determined in accordance with GAAP. For the purposes of this definition, net income excludes any gain or non-cash loss, together with any related Provision for Taxes for such gain or non-cash loss, realized upon the sale or other disposition of any assets that are not sold in the ordinary course of business (including, without limitation, dispositions pursuant to sale and leaseback transactions) or of any Capital Stock of such Person and any net income realized or loss incurred as a result of changes in accounting principles or the application thereof to such Person.

1.30 "Credit Facility" shall mean the Loans and Letters of Credit provided to or for the benefit of a Borrower pursuant to Sections 2.1, 2.2 and 2.3 hereof.

1.31 "Default" shall mean an act, condition or event which with notice or passage of time or both would constitute an Event of Default.

1.32 "Defaulting Lender" shall have the meaning set forth in Section 6.11 hereof.

1.33 "Deposit Account Control Agreement" shall mean an agreement in writing, in form and substance satisfactory to Agent, by and among Agent, the Borrower or Guarantor with a deposit account at any bank and the bank at which such deposit account is at any time maintained which provides that such bank will comply with instructions originated by Agent directing disposition of the funds in the deposit account without further consent by such Borrower or Guarantor and has such other terms and conditions as Agent may require.

1.34 "Domestic Subsidiary" shall mean any direct or indirect Subsidiary of a Borrower or Guarantor, other than a Foreign Subsidiary.

1.35 "EBITDA" shall mean, as to any Person, with respect to any period, an amount equal to: (a) the Consolidated Net Income of such Person for such period, plus (b) depreciation, amortization and other non-cash charges (including, but not limited to, imputed interest, deferred compensation and for the grant of options for the purchase of shares), in each case for such period (to the extent deducted in the computation of Consolidated Net Income of such Person), and in the case of Parent, up to \$3,000,000 of legal expenses incurred in connection with the securities litigation currently pending against Parent in the United States District Court for the District of Oregon in the aggregate for all periods (and to the extent deducted in the computation of Consolidated Net Income), all in accordance with GAAP, plus (c) Interest Expense for such

period (to the extent deducted in the computation of Consolidated Net Income of such Person), plus (d) the Provision for Taxes for such period (to the extent deducted in the computation of Consolidated Net Income of such Person), plus (e) in the case of Parent, the purchase accounting inventory mark-up taken by Merix San Jose as of December 2004 in an amount not to exceed \$320,000 and up to \$650,000 in severance charges by Parent taken in the first quarter of its 2006 fiscal year.

1.36 "Eligible Accounts" shall mean Accounts created by a Borrower that in each case satisfy the criteria set forth below as determined by Agent. In general, Accounts shall be Eligible Accounts if:

(a) such Accounts arise from the actual and bona fide sale and delivery of goods by such Borrower or rendition of services by such Borrower in the ordinary course of its business which transactions are completed in accordance with the terms and provisions contained in any documents related thereto;

(b) such Accounts are not unpaid more than sixty (60) days after the original due date thereof or more than one hundred twenty (120) days after the date of the original invoice for them;

(c) such Accounts comply with the terms and conditions contained in Section 7.2(b) of this Agreement;

(d) such Accounts do not arise from sales on consignment, guaranteed sale, sale and return, sale on approval, or other terms under which payment by the account debtor may be conditional or contingent;

(e) the chief executive office of the account debtor with respect to such Accounts is located in the United States of America, the United Kingdom or Canada or the account debtor with respect to such Accounts is an Approved Foreign Account Debtor; provided, that,

(i) at any time promptly upon Agent's request, such Borrower shall (A) execute and deliver, or cause to be executed and delivered, such other agreements, documents and instruments as may be required by Agent to perfect (or otherwise establish the effectiveness and priority of) the security interests of Agent in those Accounts of (1) an account debtor with its chief executive office or principal place of business in Canada in accordance with the applicable laws of the Province of Canada, (2) an account debtor with its chief executive office or principal place of business in the United Kingdom in accordance with the applicable laws of the United Kingdom, or (3) of an Approved Foreign Account Debtor in accordance with the applicable laws of the jurisdiction in which the Approved Foreign Account Debtor has its chief executive office or principal place of business, as the case may be, and (B) take or cause to be taken such other and further actions as Agent may request to establish the effectiveness of the rights of Agent to such accounts as against a third party (including any insolvency official) and to otherwise enable Agent as secured party with respect thereto to collect such Accounts under the applicable laws of the jurisdiction in which such account debtor or Approved Foreign Account Debtor, as the case may be, has its chief executive office or principal place of business or which might otherwise affect the rights of Agent with respect thereto;

(ii) at Agent' s option, if the chief executive office and principal place of business of the account debtor with respect to such Accounts is located other than in the United States of America, the United Kingdom or Canada or the account debtor is not an Approved Foreign Account Debtor, then otherwise Eligible Accounts owing by an account debtor may be Eligible Accounts if either: (A) such Account is subject to credit insurance payable to Agent issued by an insurer and on terms and in an amount acceptable to Agent, or (B) the account debtor has delivered to such Borrower an irrevocable letter of credit issued or confirmed by a bank satisfactory to Agent and payable only in the United States of America and in U.S. dollars, sufficient to cover such Account, in form and substance satisfactory to Agent and if required by Agent, the original of such letter of credit has been delivered to Agent or Agent' s agent and the issuer thereof, and such Borrower has complied with the terms of Section 5.2(f) hereof with respect to the assignment of the proceeds of such letter of credit to Agent or naming Agent as transferee beneficiary thereunder, as Agent may specify;

(f) such Accounts do not consist of progress billings (such that the obligation of the account debtors with respect to such Accounts is conditioned upon such Borrower' s satisfactory completion of any further performance under the agreement giving rise thereto), bill and hold invoices or retainage invoices, except as to bill and hold invoices, if Agent shall have received an agreement in writing from the account debtor, in form and substance satisfactory to Agent, confirming the unconditional obligation of the account debtor to take the goods related thereto and pay such invoice;

(g) the account debtor with respect to such Accounts has not asserted a counterclaim, defense or dispute and is not owed or does not claim to be owed any amounts that may give rise to any right of setoff or recoupment against such Accounts (but the portion of the Accounts of such account debtor in excess of the amount at any time and from time to time owed by such Borrower to such account debtor or claimed owed by such account debtor may be deemed Eligible Accounts);

(h) there are no facts, events or occurrences which would impair the validity, enforceability or collectability of such Accounts or reduce the amount payable or delay payment thereunder;

(i) such Accounts are subject to the first priority, valid and perfected security interest of Agent and any goods giving rise thereto are not, and were not at the time of the sale thereof, subject to any liens except any Permitted Liens that are subject to an intercreditor agreement in form and substance satisfactory to Agent between the holder of such security interest or lien and Agent or are permitted under Sections 9.9(b) or 9.9(c) hereof;

(j) neither the account debtor nor any officer or employee of the account debtor with respect to such Accounts is an officer, employee, agent or other Affiliate of any Borrower or Guarantor;

(k) the account debtors with respect to such Accounts are not any foreign government, the United States of America, any State, political subdivision, department, agency or instrumentality thereof, unless, if the account debtor is the United States of America, any State, political subdivision, department, agency or instrumentality thereof, upon Agent' s request, the Federal Assignment of Claims Act of 1940, as amended or any similar State or local law, if applicable, has been complied with in a manner satisfactory to Agent;

(l) there are no proceedings or actions which are threatened or pending against the account debtors with respect to such Accounts which might result in any material adverse change in any such account debtor' s financial condition (including, without limitation, any bankruptcy, dissolution, liquidation, reorganization or similar proceeding);

(m) the aggregate amount of such Accounts (i) owing by a single account debtor (other than Soletron Corporation) do not constitute more than ten (10%) percent of the aggregate amount of all otherwise Eligible Accounts, (ii) owing by Soletron Corporation do not constitute more than forty-five (45%) percent of the aggregate amount of all otherwise Eligible Accounts, which percentage as to Soletron Corporation may be reduced in such amounts as Agent may determine based on Agent' s determination of the creditworthiness of Soletron Corporation, and (iii) owing by a single account debtor and its affiliates that are Approved Foreign Account Debtors do not exceed \$2,500,000, provided, that, such Accounts owing by one account debtor and its affiliates that are Approved Foreign Account Debtors may exceed such amount, but not more than \$4,500,000 (but the portion of the Accounts not in excess of the applicable percentages or limits may be deemed Eligible Accounts);

(n) such Accounts are not owed by an account debtor who has Accounts unpaid more than one hundred twenty (120) days after the original invoice date for them or more than sixty (60) days past the due date thereof, which constitute more than fifty (50%) percent of the total Accounts of such account debtor;

(o) the account debtor is not located in a state requiring the filing of a Notice of Business Activities Report or similar report in order to permit such Borrower to seek judicial enforcement in such State of payment of such Account, unless such Borrower has qualified to do business in such state or has filed a Notice of Business Activities Report or equivalent report for the then current year or such failure to file and inability to seek judicial enforcement is capable of being remedied without any material delay or material cost;

(p) such Accounts are owed by account debtors whose total indebtedness to such Borrower does not exceed the credit limit with respect to such account debtors as determined by such Borrower from time to time, to the extent such credit limit as to any account debtor is established consistent with the current practices of such Borrower as of the date hereof and such credit limit is acceptable to Agent (but the portion of the Accounts not in excess of such credit limit may be deemed Eligible Accounts); and

(q) such Accounts are owed by account debtors deemed creditworthy at all times by Agent in good faith.

The criteria for Eligible Accounts set forth above may only be changed and any new criteria for Eligible Accounts may only be established by Agent in good faith based on either: (i) an event, condition or other circumstance arising after the date hereof, or (ii) an event, condition or other circumstance existing on the date hereof to the extent Agent has no written notice thereof from a Borrower prior to the date hereof, in either case under clause (i) or (ii) which adversely affects or could reasonably be expected to adversely affect the Accounts in the good faith determination of Agent. Any Accounts that are not Eligible Accounts shall nevertheless be part of the Collateral.

1.37 “Eligible Finished Goods Inventory” shall mean Eligible Inventory consisting of finished goods for which the Borrower that is the owner of such goods has received and accepted a confirmed purchase order for such Inventory from a customer in the ordinary course of the business of such Borrower and customer or for which such Borrower has a valid and enforceable written sales contract pursuant to which such Inventory is to be sold by such Borrower and purchased by such customer in accordance with the terms of such contract and no party is in default under the terms of such contract.

1.38 “Eligible Gold Raw Material Inventory” shall mean Eligible Inventory consisting of gold used as raw material for the finished goods of Borrowers.

1.39 “Eligible Inventory” shall mean, as to each Borrower, Inventory of such Borrower consisting of finished goods held for resale in the ordinary course of the business of such Borrower and raw materials for such finished goods, that in each case satisfy the criteria set forth below as determined by Agent. In general, Eligible Inventory shall not include: (a) work-in-process; (b) components which are not part of finished goods; (c) spare parts for equipment; (d) packaging and shipping materials; (e) supplies used or consumed in such Borrower’s business; (f) Inventory at premises other than (i) premises owned or leased and controlled by any Borrower or (ii) premises owned and operated by third parties that are expressly approved by Agent subject to the satisfaction of such additional requirements with respect to such Inventory as Agent may from time to time establish; (g) Inventory subject to a security interest or lien in favor of any Person other than Agent except those permitted in this Agreement that are subject to an intercreditor agreement in form and substance satisfactory to Agent between the holder of such security interest or lien and Agent; (h) bill and hold goods; (i) unserviceable, obsolete or slow moving Inventory; (j) Inventory that is not subject to the first priority, valid and perfected security interest of Agent; (k) returned, damaged and/or defective Inventory; (l) Inventory purchased or sold on consignment and (m) Inventory located outside the United States of America. The criteria for Eligible Inventory set forth above may only be changed and any new criteria for Eligible Inventory may only be established by Agent in good faith based on either: (i) an event, condition or other circumstance arising after the date hereof, or (ii) an event, condition or other circumstance existing on the date hereof to the extent Agent has no written notice thereof from a Borrower prior to the date hereof, in either case under clause (i) or (ii) which adversely affects or could reasonably be expected to adversely affect the Inventory in the good faith determination of Agent. Any Inventory that is not Eligible Inventory shall nevertheless be part of the Collateral.

1.40 “Eligible Transferee” shall mean (a) any Lender; (b) the parent company of any Lender and/or any Affiliate of such Lender which is at least fifty (50%) percent owned by such Lender or its parent company; (c) any person (whether a corporation, partnership, trust or otherwise) that is engaged in the business of making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business and is administered or managed by a Lender or with respect to any Lender that is a fund which invests in bank loans and similar extensions of credit, any other fund that invests in bank loans and similar extensions of credit and is managed by the same investment advisor as such Lender or by

an Affiliate of such investment advisor, and in each case is approved by Agent; and (d) any other commercial bank, financial institution or “accredited investor” (as defined in Regulation D under the Securities Act of 1933) approved by Agent, provided, that, (i) neither any Borrower nor any Guarantor or any Affiliate of any Borrower or Guarantor shall qualify as an Eligible Transferee and (ii) no Person to whom any Indebtedness which is in any way subordinated in right of payment to any other Indebtedness of any Borrower or Guarantor shall qualify as an Eligible Transferee, except as Agent may otherwise specifically agree.

1.41 “Environmental Laws” shall mean all foreign, Federal, State and local laws (including common law), legislation, rules, codes, licenses, permits (including any conditions imposed therein), authorizations, judicial or administrative decisions, injunctions or agreements between any Borrower or Guarantor and any Governmental Authority, (a) relating to pollution and the protection, preservation or restoration of the environment (including air, water vapor, surface water, ground water, drinking water, drinking water supply, surface land, subsurface land, plant and animal life or any other natural resource), or to human health or safety, (b) relating to the exposure to, or the use, storage, recycling, treatment, generation, manufacture, processing, distribution, transportation, handling, labeling, production, release or disposal, or threatened release, of Hazardous Materials, or (c) relating to all laws with regard to recordkeeping, notification, disclosure and reporting requirements respecting Hazardous Materials. The term “Environmental Laws” includes (i) the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Federal Superfund Amendments and Reauthorization Act, the Federal Water Pollution Control Act of 1972, the Federal Clean Water Act, the Federal Clean Air Act, the Federal Resource Conservation and Recovery Act of 1976 (including the Hazardous and Solid Waste Amendments thereto), the Federal Solid Waste Disposal and the Federal Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act, and the Federal Safe Drinking Water Act of 1974, (ii) applicable state counterparts to such laws and (iii) any common law or equitable doctrine that may impose liability or obligations for injuries or damages due to, or threatened as a result of, the presence of or exposure to any Hazardous Materials.

1.42 “EPC Acquisition” shall mean the purchase by the Subsidiaries of Merix Caymans Holding Company Limited listed on Schedule 1.42 hereof of all or substantially all of the assets of the EPC Companies (or in the case of Eastern Pacific Circuits Investments Limited, a company incorporated under the laws of Hong Kong and Eastern Pacific Circuits Investments (Singapore) Pte Ltd, a company incorporated under the laws of Singapore, the shares thereof) pursuant to the EPC Acquisition Documents as in effect on the date hereof.

1.43 “EPC Acquisition Documents” shall mean, collectively, the following (as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced): (a) the Master Sale and Purchase Agreement, dated April 14, 2005, by and among Parent and the EPC Companies and (b) the bills of sale, assignment and assumption agreements and other agreements, documents and instruments executed and/or delivered in connection therewith all as listed on Schedule 1.43 hereto; sometimes being referred to herein individually as an “EPC Acquisition Document”.

1.44 “EPC Companies” shall mean, collectively, Eastern Pacific Circuits Limited, a company incorporated under the laws of the Cayman Islands, and its subsidiaries listed on Schedule 1.44 hereto and their respective successors and assigns; sometimes being referred to herein individually as an “EPC Company”.

1.45 "Equipment" shall mean, as to each Borrower and Guarantor, all of such Borrower's and Guarantor's now owned and hereafter acquired equipment, wherever located, including machinery, data processing and computer equipment (whether owned or licensed and including embedded software), vehicles, tools, furniture, fixtures, all attachments, accessions and property now or hereafter affixed thereto or used in connection therewith, and substitutions and replacements thereof, wherever located.

1.46 "ERISA" shall mean the Employee Retirement Income Security Act of 1974, together with all rules, regulations and interpretations thereunder or related thereto, all as amended and in effect from time to time.

1.47 "ERISA Affiliate" shall mean any person required to be aggregated with any Borrower, any Guarantor or any of its or their respective Domestic Subsidiaries under Sections 414(b) or 414(c), or, solely for purposes of Title IV of ERISA and the funding requirements of Section 412 of the Code and Section 302 of ERISA, Sections 414(m) or 414(o) of the Code.

1.48 "ERISA Event" shall mean (a) any "reportable event", as defined in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a Pension Plan, other than events as to which the requirement of notice has been waived in regulations by statute, regulation or otherwise; (b) the adoption of any amendment to a Pension Plan that would require the provision of security pursuant to Section 401(a)(29) of the Code or Section 307 of ERISA; (c) a complete or partial withdrawal by any Borrower, Guarantor or any ERISA Affiliate from a Multiemployer Plan or a cessation of operations which is treated as such a withdrawal or notification that a Multiemployer Plan is in reorganization; (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, or the commencement of proceedings by the Pension Benefit Guaranty Corporation to terminate a Pension Plan; (e) an event or condition which would constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (f) the imposition of any liability under Title IV of ERISA, other than the Pension Benefit Guaranty Corporation premiums due but not delinquent under Section 4007 of ERISA, upon any Borrower, Guarantor or any ERISA Affiliate in excess of \$500,000 and (g) any other event or condition with respect to a Plan including any Pension Plan subject to Title IV of ERISA maintained, or contributed to, by any ERISA Affiliate that could reasonably be expected to result in liability of any Borrower in excess of \$500,000.

1.49 "Eurodollar Rate Loans" shall mean any Loans or portion thereof on which interest is payable based on the Adjusted Eurodollar Rate in accordance with the terms hereof.

1.50 "Event of Default" shall mean the occurrence or existence of any event or condition described in Section 10.1 hereof.

1.51 "Excess Availability" shall mean, the amount, as determined by Agent, calculated at any date, equal to:

(a) the lesser of: (i) the Borrowing Base and (ii) the Revolving Loan Limit (in each case under (i) or (ii) after giving effect to any Reserves other than any Reserves in respect of Letter of Credit Obligations), minus

(b) the sum of: (i) the amount of all then outstanding and unpaid Obligations (but not including for this purpose Obligations of a Borrower arising pursuant to any guarantees in favor of Agent and Lenders of the Obligations of the other Borrower or the then outstanding aggregate principal amount of the Term Loans or any outstanding Letter of Credit Obligations), plus (ii) the amount of all Reserves then established in respect of Letter of Credit Obligations, plus (iii) the aggregate amount of all then outstanding and unpaid trade payables and other obligations of Borrowers owed to unaffiliated third parties which are outstanding more than sixty (60) days past due as of the end of the immediately preceding month or at Agent' s option, as of a more recent date based on such reports as Agent may from time to time specify (other than trade payables or other obligations being contested or disputed by a Borrower in good faith), plus (iv) without duplication, and at Agent' s option, the amount of checks issued by a Borrower to pay trade payables and other obligations which are more than sixty (60) days past due as of the end of the immediately preceding month or at Agent' s option, as of a more recent date based on such reports as Agent may from time to time specify (other than trade payables or other obligations being contested or disputed by a Borrower in good faith), but not yet sent, plus

(c) Qualified Cash.

1.52 "Exchange Act" shall mean the Securities Exchange Act of 1934, together with all rules, regulations and interpretations thereunder or related thereto.

1.53 "Fee Letter" shall mean the letter agreement, dated of even date herewith, by and among Borrowers, Guarantors and Agent, setting forth certain fees payable by Borrowers to Agent for the benefit of itself and Lenders, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

1.54 "Financing Agreements" shall mean, collectively, this Agreement and all notes, guarantees, security agreements, deposit account control agreements, investment property control agreements, intercreditor agreements and all other agreements, documents and instruments now or at any time hereafter executed and/or delivered by any Borrower or Guarantor in connection with this Agreement; provided, that, in no event shall the term Financing Agreements be deemed to include any Hedge Agreement.

1.55 "Fixed Charge Coverage Ratio" shall mean, as to any Person, with respect to any period, the ratio of: (a) the amount equal to EBITDA of such Person for such period to (b) the Fixed Charges of such Person for such period.

1.56 "Fixed Charges" shall mean, as to any Person, with respect to any period, the sum of, without duplication, (a) all Interest Expense during such period, plus (b) all Capital Expenditures during such period (other than, as to Parent and its Subsidiaries, Capital Expenditures made with the proceeds of Indebtedness permitted for such purpose hereunder), plus (c) all regularly scheduled (as determined at the beginning of the respective period) principal payments in respect of Indebtedness for borrowed money (excluding payments in

respect of Revolving Loans which do not result in a reduction of the Maximum Credit) and Indebtedness with respect to Capital Leases (and without duplicating items (a) and (c) of this definition, the interest component with respect to Indebtedness under Capital Leases) during such period, plus (d) dividends and other distributions, and repurchases and redemptions, in respect of Capital Stock paid during such period, plus (e) cash costs paid under any Hedge Agreement, plus (f) taxes paid during such period in cash.

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

1.58 “Foreign Subsidiary” shall mean, a direct or indirect Subsidiary of Parent organized or incorporated under the laws of a jurisdiction other than a state of the United States of America, the United States of America or its territories or its possessions.

1.59 “Funding Bank” shall have the meaning given to such term in Section 3.3 hereof.

1.60 “GAAP” shall mean generally accepted accounting principles in the United States of America as in effect from time to time as set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and the statements and pronouncements of the Financial Accounting Standards Board which are applicable to the circumstances as of the date of determination consistently applied, except that, for purposes of Section 9.17 hereof, GAAP shall be determined on the basis of such principles in effect on the date hereof and consistent with those used in the preparation of the most recent audited financial statements delivered to Agent prior to the date hereof.

1.61 “Governmental Authority” shall mean any nation or government, any state, province, or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

1.62 “Guarantors” shall mean, collectively, the following (together with their respective successors and assigns): (a) Merix Nevada, Inc., an Oregon corporation; (b) Merix Asia, Inc., an Oregon corporation; (c) Data Circuit Holdings, Inc., a Delaware corporation; and (d) any other Person that at any time after the date hereof becomes party to a guarantee in favor of Agent or any Lender or otherwise liable on or with respect to the Obligations or who is the owner of any property which is security for the Obligations (other than Borrowers); each sometimes being referred to herein individually as a “Guarantor”.

1.63 “Hazardous Materials” shall mean any hazardous, toxic or dangerous substances, materials and wastes, including hydrocarbons (including naturally occurring or man-made petroleum and hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, biological substances, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including materials which include hazardous constituents), sewage, sludge, industrial slag, solvents and/or any other similar substances, materials, or wastes and including any other substances, materials or wastes that are or become regulated under any Environmental Law (including any that are or become classified as hazardous or toxic under any Environmental Law).

1.64 "Hedge Agreement" shall mean an agreement between any Borrower or Guarantor and a Bank Product Provider that is a rate swap agreement, basis swap, forward rate agreement, commodity swap, forward commodity contracts, interest rate option, forward foreign exchange agreement, spot foreign exchange agreement, rate cap agreement rate, floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, any other similar agreement (including any option to enter into any of the foregoing or a master agreement for any the foregoing together with all supplements thereto) for the purpose of protecting against or managing exposure to fluctuations in interest or exchange rates, currency valuations or commodity prices; sometimes being collectively referred to herein as "Hedge Agreements".

1.65 "Indebtedness" shall mean, with respect to any Person, any liability, whether or not contingent, (a) in respect of borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof) or evidenced by bonds, notes, debentures or similar instruments; (b) representing the balance deferred and unpaid of the purchase price of any property or services (other than an account payable to a trade creditor (whether or not an Affiliate) incurred in the ordinary course of business of such Person and payable in accordance with customary trade practices); (c) all obligations as lessee under leases which have been, or should be, in accordance with GAAP recorded as Capital Leases; (d) any contractual obligation, contingent or otherwise, of such Person to pay or be liable for the payment of any indebtedness described in this definition of another Person, including, without limitation, any such indebtedness, directly or indirectly guaranteed, or any agreement to purchase, repurchase, or otherwise acquire such indebtedness, obligation or liability or any security therefor, or to provide funds for the payment or discharge thereof, or to maintain solvency, assets, level of income, or other financial condition; (e) all obligations with respect to redeemable stock and redemption or repurchase obligations under any Capital Stock or other equity securities issued by such Person; (f) all reimbursement obligations and other liabilities of such Person with respect to surety bonds (whether bid, performance or otherwise), letters of credit, banker's acceptances, drafts or similar documents or instruments issued for such Person's account; (g) all indebtedness of such Person in respect of indebtedness of another Person for borrowed money or indebtedness of another Person otherwise described in this definition which is secured by any consensual lien, security interest, collateral assignment, conditional sale, mortgage, deed of trust, or other encumbrance on any asset of such Person, whether or not such obligations, liabilities or indebtedness are assumed by or are a personal liability of such Person, all as of such time; (h) all obligations, liabilities and indebtedness of such Person (marked to market) arising under swap agreements, cap agreements and collar agreements and other agreements or arrangements designed to protect such person against fluctuations in interest rates or currency or commodity values; (i) all obligations owed by such Person under License Agreements with respect to non-refundable, advance or minimum guarantee royalty payments; (j) indebtedness of any partnership or joint venture in which such Person is a general partner or a joint venturer to the extent such Person is liable therefor as a result of such Person's ownership interest in such entity, except to the extent that the terms of such indebtedness expressly provide that such Person is not liable therefor or such Person has no liability therefor as a matter of law and (k) the principal and interest portions of all rental obligations of such Person under any

synthetic lease or similar off-balance sheet financing where such transaction is considered to be borrowed money for tax purposes but is classified as an operating lease in accordance with GAAP.

1.66 “Information Certificate” shall mean, collectively, the Information Certificates of Borrowers and Guarantors constituting Exhibit C hereto containing material information with respect to Borrowers and Guarantors, their respective businesses and assets provided by or on behalf of Borrowers and Guarantors to Agent in connection with the preparation of this Agreement and the other Financing Agreements and the financing arrangements provided for herein.

1.67 “Intellectual Property” shall mean, as to each Borrower and Guarantor, such Borrower’s and Guarantor’s now owned and hereafter arising or acquired: patents, patent rights, patent applications, copyrights, works which are the subject matter of copyrights, copyright applications, copyright registrations, trademarks, servicemarks, trade names, trade styles, trademark and service mark applications, and licenses and rights to use any of the foregoing and all applications, registrations and recordings relating to any of the foregoing as may be filed in the United States Copyright Office, the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, any political subdivision thereof or in any other country or jurisdiction, together with all rights and privileges arising under applicable law with respect to any Borrower’s or Guarantor’s use of any of the foregoing; all extensions, renewals, reissues, divisions, continuations, and continuations-in-part of any of the foregoing; all rights to sue for past, present and future infringement of any of the foregoing; inventions, trade secrets, formulae, processes, compounds, drawings, designs, blueprints, surveys, reports, manuals, and operating standards; goodwill (including any goodwill associated with any trademark or servicemark, or the license of any trademark or servicemark); customer and other lists in whatever form maintained; trade secret rights, copyright rights, rights in works of authorship, domain names and domain name registration; software and contract rights relating to computer software programs, in whatever form created or maintained.

1.68 “Interest Expense” shall mean, for any period, as to any Person, as determined in accordance with GAAP, the total interest expense of such Person, whether paid or accrued during such period (including the interest component of Capital Leases for such period), including, without limitation, discounts in connection with the sale of any Accounts and bank fees, commissions, discounts and other fees and charges owed with respect to letters of credit, banker’s acceptances or similar instruments.

1.69 “Interest Period” shall mean for any Eurodollar Rate Loan, a period of approximately one (1), two (2), three (3) or six (6) months duration as any Borrower (or Administrative Borrower on behalf of such Borrower) may elect, the exact duration to be determined in accordance with the customary practice in the applicable Eurodollar Rate market; provided, that, such Borrower (or Administrative Borrower on behalf of such Borrower) may not elect an Interest Period which will end after the last day of the then-current term of this Agreement.

1.70 “Interest Rate” shall mean, as to Prime Rate Loans, a rate equal to the Prime Rate plus the Applicable Margin for Prime Rate Loans, and as to Eurodollar Rate Loans, a rate equal

to the Adjusted Eurodollar Rate plus the Applicable Margin for Eurodollar Rate Loans (in each case, based on the London Interbank Offered Rate applicable for the Interest Period selected by a Borrower, or by Administrative Borrower on behalf of such Borrower, as in effect two (2) Business Days prior to the commencement of the Interest Period whether such rate is higher or lower than any rate previously quoted to any Borrower or Guarantor). Notwithstanding anything to the contrary contained in this definition, the Applicable Margin otherwise used to calculate the Interest Rate for Prime Rate Loans and Eurodollar Rate Loans shall be the percentage set forth in the definition of the term Applicable Margin for each category of Loans that is then applicable plus two (2.00%) percent per annum, at Agent' s option, (i) for the period (A) from and after the effective date of termination or non-renewal hereof until such time as all Obligations are indefeasibly paid and satisfied in full in immediately available funds, or (B) from and after the date of the occurrence of any Event of Default, and for so long as such Event of Default is continuing as determined by Agent and (ii) on the Revolving Loans to any Borrower at any time outstanding in excess of the Borrowing Base or the Revolving Loan Limit (whether or not such excess(es) arise or are made with or without Agent' s or any Lender' s knowledge or consent and whether made before or after an Event of Default).

1.71 "Inventory" shall mean, as to each Borrower and Guarantor, all of such Borrower' s and Guarantor' s now owned and hereafter existing or acquired goods, wherever located, which (a) are leased by such Borrower or Guarantor as lessor; (b) are held by such Borrower or Guarantor for sale or lease or to be furnished under a contract of service; (c) are furnished by such Borrower or Guarantor under a contract of service; or (d) consist of raw materials, work in process, finished goods or materials used or consumed in its business.

1.72 "Inventory Availability Date" shall mean the date that each of the following conditions is satisfied as determined in good faith by Agent:

(a) Agent shall have received a written notice from Administrative Borrower not less than fifteen (15) Business Days prior to such date requesting that the Eligible Inventory be included in the calculation of the Borrowing Base;

(b) Agent shall have received a Borrowing Base Certificate setting forth the amount of Eligible Inventory and otherwise completed to include the Eligible Inventory as provided for in such form not more than seven (7) Business Days and not less than three (3) Business Days prior to such date;

(c) Agent shall have received, in form and substance satisfactory to Agent, in each case not less than three (3) Business Days prior to such date, (i) inventory reports by location and category (and including the amounts of Inventory and the value thereof at any leased locations and at premises of warehouses, processors or other third parties), (ii) such information indicating the amounts owing to owners and lessors or leased premises, warehouses, processors and other third parties from time to time in possession of any Inventory, (iii) such purchase orders, invoice and delivery documents for Inventory acquired by Borrowers, and such other information with respect to the Inventory, as Agent may reasonably request;

(d) if the request from Administrative Borrower is received after November 30, 2005, Agent shall have conducted a field examination of the Inventory in scope and nature, and

with results as of a date not more than ten (10) Business Days prior to such date, satisfactory to Agent and completed the final version of its written report of the results of such field examination not less than three (3) Business Days prior to such date;

(e) if the request from Administrative Borrower is received after August 31, 2006, not less than five (5) Business Days prior to such date, Agent shall have received an appraisal of the Inventory in form, scope and methodology acceptable to Agent, by an appraiser acceptable to Agent and upon which Agent and Lenders are permitted to rely, reflecting appraised values as of a date not more than thirty (30) days prior to such date (provided, that, such appraisal shall not be considered for purposes of any limitation on the number of appraisals that Agent may receive set forth herein); and

(f) Agent shall have received such Collateral Access Agreements and related agreements as Agent may require with respect to locations of Inventory owned or operated by a third party, as duly authorized, executed and delivered by the owner and operator of such locations, including any lessor, processor, customs broker or other third party, as the case may be.

1.73 "Inventory Loan Limit" shall mean, at any time, the amount equal to \$2,500,000 (and including Letters of Credit to the extent provided in the definition of the term Borrowing Base).

1.74 "Investment" shall have the meaning set forth in Section 9.10 hereof.

1.75 "Investment Property Control Agreement" shall mean an agreement in writing, in form and substance satisfactory to Agent, by and among Agent, any Borrower or Guarantor (as the case may be) and any securities intermediary, commodity intermediary or other person who has custody, control or possession of any investment property of such Borrower or Guarantor acknowledging that such securities intermediary, commodity intermediary or other person has custody, control or possession of such investment property on behalf of Agent, that it will comply with entitlement orders originated by Agent with respect to such investment property, or other instructions of Agent, and has such other terms and conditions as Agent may require.

1.76 "Issuing Bank" shall mean Wachovia Bank, National Association as issuer of any Letters of Credit.

1.77 "Lenders" shall mean the financial institutions who are signatories hereto as Lenders and other persons made a party to this Agreement as a Lender in accordance with Section 13.7 hereof, and their respective successors and assigns; each sometimes being referred to herein individually as a "Lender".

1.78 "Letter of Credit Documents" shall mean, with respect to any Letter of Credit, such Letter of Credit, any amendments thereto, any documents delivered in connection therewith, any application therefor, and any agreements, instruments, guarantees or other documents (whether general in application or applicable only to such Letter of Credit) governing or providing for (a) the rights and obligations of the parties concerned or at risk or (b) any collateral security for such obligations.

1.79 "Letter of Credit Limit" shall mean \$4,000,000.

1.80 "Letter of Credit Obligations" shall mean, at any time, the sum of (a) the aggregate undrawn amount of all Letters of Credit outstanding at such time, plus (b) the aggregate amount of all drawings under Letters of Credit for which Issuing Bank has not at such time been reimbursed, plus (c) without duplication, the aggregate amount of all payments made by each Lender to Issuing Bank with respect to such Lender's participation in Letters of Credit as provided in Section 2.2 for which Borrowers have not at such time reimbursed the Lenders, whether by way of a Revolving Loan or otherwise.

1.81 "Letters of Credit" shall mean all letters of credit (whether documentary or stand-by and whether for the purchase of inventory, equipment or otherwise) issued by an Issuing Bank for the account of a Borrower pursuant to this Agreement, and all amendments, renewals, extensions or replacements thereof and including, but not limited to, the Existing Letters of Credit.

1.82 "License Agreements" shall have the meaning set forth in Section 8.11 hereof.

1.83 "Loans" shall mean, collectively, the Revolving Loans and the Term Loans.

1.84 "London Interbank Offered Rate" shall mean, with respect to any Eurodollar Rate Loan for the Interest Period applicable thereto, the rate of interest per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on Telerate Page 3750 (or any successor page) as the London interbank offered rate for deposits in U.S. Dollars at approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period for a term comparable to such Interest Period; provided, that, if more than one rate is specified on Telerate Page 3750, the applicable rate shall be the arithmetic mean of all such rates. If, for any reason, such rate is not available, the term "London Interbank Offered Rate" shall mean, with respect to any Eurodollar Loan for the Interest Period applicable thereto, the rate of interest per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on Reuters Screen LIBO Page as the London interbank offered rate for deposits in Dollars at approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period for a term comparable to such Interest Period; provided, however, if more than one rate is specified on Reuters Screen LIBO Page, the applicable rate shall be the arithmetic mean of all such rates.

1.85 "Material Adverse Effect" shall mean a material adverse effect on (a) the financial condition, business, performance or operations of Borrowers; (b) the legality, validity or enforceability of this Agreement or any of the other Financing Agreements; (c) the legality, validity, enforceability, perfection or priority of the security interests and liens of Agent upon the Collateral; (d) the Collateral or its value; (e) the ability of any Borrower to repay the Obligations or of any Borrower to perform its obligations under this Agreement or any of the other Financing Agreements as and when to be performed; or (f) the ability of Agent or any Lender to enforce the Obligations or realize upon the Collateral or otherwise with respect to the rights and remedies of Agent and Lenders under this Agreement or any of the other Financing Agreements.

1.86 "Material Contract" shall mean (a) any contract or other agreement (other than the Financing Agreements), written or oral, of any Borrower or Guarantor involving monetary

liability of or to any Person in an amount in excess of \$500,000 in any fiscal year and (b) any other contract or other agreement (other than the Financing Agreements), whether written or oral, to which any Borrower or Guarantor is a party as to which the breach, nonperformance, cancellation or failure to renew by any party thereto would have a Material Adverse Effect.

1.87 "Maturity Date" shall have the meaning set forth in Section 13.1 hereof.

1.88 "Maximum Credit" shall mean the amount of \$55,000,000.

1.89 "Merix \$2,000,000 Note" shall mean the Promissory Note due December 9, 2006, dated December 9, 2004, issued by Merix payable to the Stockholders and the Warrant Holders (as each such term is defined in the Stock Purchase Agreement, dated as of December 9, 2004, by and among Parent, Merix San Jose, DC Holdings and the stockholders of DC Holdings, as in effect on the date hereof) in care of the Stockholder's Agent (as such term is defined in such Stock Purchase Agreement as in effect on the date hereof) in the original principal amount of \$2,000,000, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

1.90 "Merix 6.5% Debenture" shall mean the 6.5% Convertible Debenture due May 30, 2007, dated May 30, 2002, issued by Merix in the original principal amount of \$25,000,000, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

1.91 "Mortgage" shall mean, collectively, the following (as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced): (a) the Line of Credit Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated of even date herewith, by Parent in favor of Agent with respect to the Real Property and related assets of Parent located at 1521 Poplar Lane, Forest Grove, Oregon and (b) any mortgage, deed of trust or deed to secure debt executed and delivered after the date hereof by any Borrower or Guarantor with respect to any other Real Property of such Borrower or Guarantor in favor of Agent, including any such agreement delivered pursuant to Section 9.7(b)(iv) hereof or Section 9.20 hereof.

1.92 "Multiemployer Plan" shall mean a "multi-employer plan" as defined in Section 4001(a)(3) of ERISA which is or was at any time during the current year or the immediately preceding six (6) years contributed to by any Borrower, Guarantor or any ERISA Affiliate or with respect to which any Borrower, Guarantor or any ERISA Affiliate may incur any liability.

1.93 "Net Cash Proceeds" shall mean the aggregate cash proceeds payable to any Borrower or Guarantor in respect of any sale, lease, transfer or other disposition of any assets or properties, or interest in assets and properties, or in respect of any loss of or damage to any assets or property of any Borrower or Guarantor from proceeds of insurance, and in the case of a sale, lease, transfer or other disposition, net of the reasonable and customary direct costs relating to such sale, lease, transfer or other disposition (including, without limitation, legal, accounting and investment banking fees, and sales commissions) or in the case of proceeds of insurance, net of costs and expenses relating to obtaining such proceeds, and in each case, net of taxes paid or payable as a result thereof (after taking into account any available tax credits or deductions and

any tax sharing arrangements), and net of amounts applied to the repayment of indebtedness secured by a valid and enforceable lien on the asset or assets that are the subject of such sale or other disposition required to be repaid in connection with such transaction or that are the subject of such loss or damage that is the basis for such payment of proceeds of insurance. Net Cash Proceeds shall exclude any non-cash proceeds received from any sale or other disposition or other transaction or from insurance, but shall include such proceeds when and as converted by any Borrower or Guarantor to cash or other immediately available funds.

1.94 “Net Recovery Percentage” shall mean the fraction, expressed as a percentage, (a) the numerator of which is the amount equal to the amount of the recovery in respect of the Inventory at such time on a “net orderly liquidation value” basis as set forth in the most recent acceptable appraisal of Inventory received by Agent in accordance with Section 7.3, net of operating expenses, liquidation expenses and commissions, and (b) the denominator of which is the applicable original cost of the aggregate amount of the Inventory subject to such appraisal.

1.95 “Obligations” shall mean (a) any and all Loans, Letter of Credit Obligations and all other obligations, liabilities and indebtedness of every kind, nature and description owing by any or all of Borrowers to Agent or any Lender and/or any of their Affiliates or any Issuing Bank, including principal, interest, charges, fees, costs and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, arising under this Agreement or any of the other Financing Agreements or on account of any Letter of Credit and all other Letter of Credit Obligations, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of this Agreement or after the commencement of any case with respect to such Borrower under the United States Bankruptcy Code or any similar statute (including the payment of interest and other amounts which would accrue and become due but for the commencement of such case, whether or not such amounts are allowed or allowable in whole or in part in such case), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, or secured or unsecured and (b) for purposes only of Section 5.1 hereof and subject to the priority in right of payment set forth in Section 6.4 hereof, all obligations, liabilities and indebtedness of every kind, nature and description owing by any or all of Borrowers or Guarantors to Agent or any Bank Product Provider arising under or pursuant to any Bank Products, whether now existing or hereafter arising, provided, that, (i) as to any obligations, liabilities and indebtedness arising under or pursuant to a Hedge Agreement, such obligations, liabilities and indebtedness shall only be included within the Obligations if upon Agent’s request, Agent shall have entered into an agreement, in form and substance reasonably satisfactory to Agent, with the Bank Product Provider that is a counterparty to such Hedge Agreement, as acknowledged and agreed to by Borrowers and Guarantors, providing for the delivery to Agent by such counterparty of information with respect to the amount of such obligations and providing for the other rights of Agent and such Bank Product Provider in connection with such arrangements and (ii) as to any obligations, liabilities and indebtedness arising under or pursuant to a Bank Product, such obligations, liabilities and indebtedness shall only be included within the Obligations, if the Administrative Borrower and the applicable Bank Product Provider, other than Wachovia and its Affiliates, shall have delivered written notice to Agent that (A) such Bank Product Provider has entered into a transaction to provide Bank Products to a Borrower and Guarantor and (B) the obligations arising pursuant to such Bank Products provided to Borrowers and Guarantors constitute Obligations entitled to the benefits of the security interest of Agent granted hereunder,

and Agent shall have approved and accepted such notice in writing and (iii) in no event shall any Bank Product Provider to whom such obligations, liabilities or indebtedness are owing be deemed a Lender for purposes hereof to the extent of and as to such obligations, liabilities or indebtedness other than for purposes of Section 5.1 hereof and other than for purposes of Sections 12.1, 12.2, 12.3(b), 12.6, 12.7, 12.9, 12.12 and 13.6 hereof and in no event shall such obligations, liabilities or indebtedness be included in the Obligations to the extent that the effect is that the value of the Collateral (as determined by Agent) is less than the Obligations (provided, that, any such obligations, liabilities or indebtedness for which a Reserve has not been established shall be deemed to not constitute Obligations in such event prior to any such obligations, liabilities or indebtedness for which a Reserve has been established) and in no event shall the approval of any such person be required in connection with the release or termination of any security interest or lien of Agent.

1.96 "Other Taxes" shall have the meaning given to such term in Section 6.5 hereof.

1.97 "Parent" shall mean Merix Corporation, an Oregon corporation, and its successors and assigns.

1.98 "Participant" shall mean any financial institution that acquires and holds a participation in the interest of any Lender in any of the Loans and Letters of Credit in conformity with the provisions of Section 13.7 of this Agreement governing participations.

1.99 "Pension Plan" shall mean a pension plan (as defined in Section 3(2) of ERISA) subject to Title IV of ERISA which any Borrower or Guarantor sponsors, maintains, or to which any Borrower, Guarantor or ERISA Affiliate makes, is making, or is obligated to make contributions, other than a Multiemployer Plan.

1.100 "Permitted Liens" shall have the meaning set forth in Section 9.8 hereof.

1.101 "Person" or "person" shall mean any individual, sole proprietorship, partnership, corporation (including any corporation which elects subchapter S status under the Code), limited liability company, limited liability partnership, business trust, unincorporated association, joint stock corporation, trust, joint venture or other entity or any government or any agency or instrumentality or political subdivision thereof.

1.102 "Plan" shall mean an employee benefit plan (as defined in Section 3(3) of ERISA) which any Borrower or Guarantor sponsors, maintains, or to which it makes, is making, or is obligated to make contributions, or in the case of a Multiemployer Plan has made contributions at any time during the immediately preceding six (6) plan years or with respect to which any Borrower or Guarantor may incur liability.

1.103 "Prime Rate" shall mean the rate from time to time publicly announced by Wachovia Bank, National Association, or its successors, as its prime rate, whether or not such announced rate is the best rate available at such bank.

1.104 "Prime Rate Loans" shall mean any Loans or portion thereof on which interest is payable based on the Prime Rate in accordance with the terms thereof.

1.105 “Pro Rata Share” shall mean as to any Lender, the fraction (expressed as a percentage) the numerator of which is such Lender’s Commitment and the denominator of which is the aggregate amount of all of the Commitments of Lenders, as adjusted from time to time in accordance with the provisions of Section 13.7 hereof; provided, that, if the Commitments have been terminated, the numerator shall be the unpaid amount of such Lender’s Loans and its interest in the Letters of Credit and the denominator shall be the aggregate amount of all unpaid Loans and Letters of Credit.

1.106 “Provision for Taxes” shall mean an amount equal to all taxes imposed on or measured by net income, whether Federal, State, county or local, and whether foreign or domestic, that are paid or payable by any Person in respect of any period in accordance with GAAP.

1.107 “Qualified Cash” shall mean cash or Cash Equivalents owned by a Borrower, which funds are (a) available for use by a Borrower, without condition or restriction, (b) free and clear of any pledge, security interest, lien, claim or other encumbrance (except in favor of Agent), (c) are subject to the first priority perfected security interest of Agent, (d) in an investment account specified in Schedule 1.107 hereto and in each case such account is subject to an Investment Property Control Agreement in form and substance satisfactory to Agent, and the securities intermediary party to such agreement is in compliance with the terms thereof, and (e) for which Agent shall have received evidence, in form and substance satisfactory to Agent, of the amount of such cash or Cash Equivalents held in such investment account as of the applicable date of the calculation of Excess Availability by Agent and the satisfaction of the other conditions herein.

1.108 “Quarterly Average Excess Availability” shall mean, at any time, the daily average of the Excess Availability for the immediately preceding calendar quarter as calculated by Agent (provided, that, for purposes of such calculation, Qualified Cash shall be included in the calculation of Excess Availability based on such reporting thereof as Agent may from time to time request for such purpose).

1.109 “Quarterly Average Revolving Obligations” shall mean, at any time, the daily average principal balance of the outstanding Revolving Loans and undrawn amount of Letters of Credit for the immediately preceding calendar quarter as calculated by Agent.

1.110 “Real Property” shall mean all now owned and hereafter acquired real property of each Borrower and Guarantor, including leasehold interests, together with all buildings, structures, and other improvements located thereon and all licenses, easements and appurtenances relating thereto, wherever located, including the real property and related assets more particularly described in the Mortgage.

1.111 “Receivables” shall mean all of the following now owned or hereafter arising or acquired property of each Borrower and Guarantor: (a) all Accounts; (b) all interest, fees, late charges, penalties, collection fees and other amounts due or to become due or otherwise payable in connection with any Account; (c) all payment intangibles of such Borrower or Guarantor; (d) letters of credit, indemnities, guarantees, security or other deposits and proceeds thereof issued payable to any Borrower or Guarantor or otherwise in favor of or delivered to any Borrower or

Guarantor in connection with any Account; or (e) all other accounts, contract rights, chattel paper, instruments, notes, general intangibles and other forms of obligations owing to any Borrower or Guarantor, whether from the sale and lease of goods or other property, licensing of any property (including Intellectual Property or other general intangibles), rendition of services or from loans or advances by any Borrower or Guarantor or to or for the benefit of any third person (including loans or advances to any Affiliates or Subsidiaries of any Borrower or Guarantor) or otherwise associated with any Accounts, Inventory or general intangibles of any Borrower or Guarantor (including, without limitation, choses in action, causes of action, tax refunds, tax refund claims, any funds which may become payable to any Borrower or Guarantor in connection with the termination of any Plan or other employee benefit plan and any other amounts payable to any Borrower or Guarantor from any Plan or other employee benefit plan, rights and claims against carriers and shippers, rights to indemnification, and proceeds thereof, casualty or any similar types of insurance and any proceeds thereof and proceeds of insurance covering the lives of employees on which any Borrower or Guarantor is a beneficiary).

1.112 “Records” shall mean, as to each Borrower and Guarantor, all of such Borrower’s and Guarantor’s present and future books of account of every kind or nature, purchase and sale agreements, invoices, ledger cards, bills of lading and other shipping evidence, statements, correspondence, memoranda, credit files and other data relating to the Collateral or any account debtor, together with the tapes, disks, diskettes and other data and software storage media and devices, file cabinets or containers in or on which the foregoing are stored (including any rights of any Borrower or Guarantor with respect to the foregoing maintained with or by any other person).

1.113 “Refinancing Indebtedness” shall have the meaning set forth in Section 9.9(j) hereof.

1.114 “Register” shall have the meaning set forth in Section 13.7 hereof.

1.115 “Required Lenders” shall mean, at any time, those Lenders whose Pro Rata Shares aggregate more than fifty (50%) percent of the aggregate of the Commitments of all Lenders, or if the Commitments shall have been terminated, Lenders to whom more than fifty (50%) percent of the then outstanding Loans and Letter of Credit Obligations are owing; provided, that, in the event that there are only two (2) Lenders, then “Required Lenders” shall mean both of such Lenders and if there are more than two (2) Lenders, but one (1) Lender has more than fifty (50%) percent of the aggregate of the Commitments of all Lenders (or outstanding Obligations as provided above), then “Required Lenders” shall mean such Lender and one other Lender.

1.116 “Reserves” shall mean as of any date of determination, such amounts as Agent may from time to time establish and revise in good faith reducing the amount of Revolving Loans and Letters of Credit that would otherwise be available to a Borrower under the lending formula(s) provided for herein: (a) to reflect events, conditions, contingencies or risks which, as determined by Agent in good faith, adversely affect, or would have a reasonable likelihood of adversely affecting, either (i) the Collateral or any other property which is security for the Obligations, its value or the amount that might be received by Agent from the sale or other disposition or realization upon such Collateral, or (ii) the assets or business of any Borrower or

Guarantor or (iii) the security interests and other rights of Agent or any Lender in the Collateral (including the enforceability, perfection and priority thereof) or (b) to reflect Agent's good faith belief that any collateral report or financial information furnished by or on behalf of any Borrower or Guarantor to Agent is or may have been incomplete, inaccurate or misleading in any material respect or (c) to reflect outstanding Letters of Credit as provided in Section 2.2 hereof or (d) in respect of any state of facts which Agent determines in good faith constitutes a Default or an Event of Default. Without limiting the generality of the foregoing, Reserves may, at Agent's option, be established to reflect: (i) dilution with respect to the Accounts (based on the ratio of the aggregate amount of non-cash reductions in Accounts for any period to the aggregate dollar amount of the sales of such Borrower for such period) as calculated by Agent for any period is or is reasonably anticipated to be greater than five (5%) percent, (ii) that the orderly liquidation value of the Equipment or fair market value of any of the Real Property as set forth in the then most recent acceptable appraisals received by Agent with respect thereto has declined so that the then outstanding principal amount of the Term Loans is greater than such percentage with respect to such appraised values as Agent used in establishing the original principal amount of the Term Loans multiplied by such appraised values; (iii) returns, discounts, claims, credits and allowances of any nature that are not paid pursuant to the reduction of Accounts, (iv) the sales, excise or similar taxes included in the amount of any Accounts reported to Agent, (v) on and after the Inventory Availability Date, a change in the turnover, age or mix of the categories of Inventory that adversely affects the aggregate value of all Inventory, (vi) on and after an Inventory Availability Date, amounts due or to become due to owners and lessors of premises where any Collateral is located, other than for those locations where Agent has received a Collateral Access Agreement that Agent has approved and accepted in writing, (vii) amounts due or to become due to owners and licensors of trademarks and other Intellectual Property used by a Borrower in connection with the manufacture, sale or distribution of any Inventory having a value in excess of \$500,000 or in connection with the use, development or maintenance of Records relating to the Collateral, and (viii) obligations, liabilities or indebtedness (contingent or otherwise) of Borrowers or Guarantors to any Bank Product Provider arising under or in connection with any Bank Products of any Borrower or Guarantor with a Bank Product Provider or as such Person may otherwise require in connection therewith to the extent that such obligations, liabilities or indebtedness constitute Obligations as such term is defined herein or otherwise receive the benefit of the security interest of Agent in any Collateral. To the extent Agent may revise the lending formulas used to determine the Borrowing Base or establish new criteria or revise existing criteria for Eligible Accounts or Eligible Inventory so as to address any circumstances, condition, event or contingency in a manner satisfactory to Agent, Agent shall not establish a Reserve for the same purpose. The amount of any Reserve established by Agent shall have a reasonable relationship to the event, condition or other matter which is the basis for such reserve as determined by Agent in good faith and to the extent that such Reserve is in respect of amounts that may be payable to third parties, Agent may, at its option, deduct such Reserve from the Revolving Loan Limit, at any time that such limit is less than the amount of the Borrowing Base.

1.117 "Revolving Loan Limit" shall mean, at any time, the amount equal to the \$38,500,000.

1.118 “Revolving Loans” shall mean the loans now or hereafter made by or on behalf of any Lender or by Agent for the account of any Lender on a revolving basis pursuant to the Credit Facility (involving advances, repayments and readvances) as set forth in Section 2.1 hereof.

1.119 “Secured Parties” shall mean, collectively, (a) Agent, (b) Lenders, (c) the Issuing Bank and (d) any Bank Product Provider; provided, that, (i) as to any Bank Product Provider, only to the extent of the Obligations owing to such Bank Product Provider and (ii) such parties are sometimes referred to herein individually as a “Secured Party”.

1.120 “Solvent” shall mean, at any time with respect to any Person, that at such time such Person (a) is able to pay its debts as they mature and has (and has a reasonable basis to believe it will continue to have) sufficient capital (and not unreasonably small capital) to carry on its business consistent with its practices as of the date hereof, and (b) the assets and properties of such Person at a fair valuation (and including as assets for this purpose at a fair valuation all rights of subrogation, contribution or indemnification arising pursuant to any guarantees given by such Person) are greater than the Indebtedness of such Person, and including subordinated and contingent liabilities computed at the amount which, such person has a reasonable basis to believe, represents an amount which can reasonably be expected to become an actual or matured liability (and including as to contingent liabilities arising pursuant to any guarantee the face amount of such liability as reduced to reflect the probability of it becoming a matured liability).

1.121 “Special Agent Advances” shall have the meaning set forth in Section 12.11 hereof.

1.122 “Subsidiary” or “subsidiary” shall mean, with respect to any Person, any corporation, limited liability company, limited liability partnership or other limited or general partnership, trust, association or other business entity of which an aggregate of at least a majority of the outstanding Capital Stock or other interests entitled to vote in the election of the board of directors of such corporation (irrespective of whether, at the time, Capital Stock of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency), managers, trustees or other controlling persons, or an equivalent controlling interest therein, of such Person is, at the time, directly or indirectly, owned by such Person and/or one or more subsidiaries of such Person.

1.123 “Term Loans” shall mean, collectively, the term loans made by or on behalf of Lenders to Borrowers as provided for in Section 2.3 hereof; sometimes being referred to herein individually as a “Term Loan”.

1.124 “UCC” shall mean the Uniform Commercial Code as in effect in the State of New York, and any successor statute, as in effect from time to time (except that terms used herein which are defined in the Uniform Commercial Code as in effect in the State of New York on the date hereof shall continue to have the same meaning notwithstanding any replacement or amendment of such statute except as Agent may otherwise determine).

1.125 “Value” shall mean, as determined by Agent in good faith, with respect to Inventory, the lower of (a) cost computed on a first-in first-out basis in accordance with GAAP or (b) market value, provided, that, for purposes of the calculation of the Borrowing Base, (i) the

Value of the Inventory shall not include: (A) the portion of the value of Inventory equal to the profit earned by any Affiliate on the sale thereof to any Borrower or (B) write-ups or write-downs in value with respect to currency exchange rates and (ii) notwithstanding anything to the contrary contained herein, the cost of the Inventory shall be computed in the same manner and consistent with the most recent appraisal of the Inventory received and accepted by Agent prior to the date hereof, if any.

1.126 "Voting Stock" shall mean with respect to any Person, (a) one (1) or more classes of Capital Stock of such Person having general voting powers to elect at least a majority of the board of directors, managers or trustees of such Person, irrespective of whether at the time Capital Stock of any other class or classes have or might have voting power by reason of the happening of any contingency, and (b) any Capital Stock of such Person convertible or exchangeable without restriction at the option of the holder thereof into Capital Stock of such Person described in clause (a) of this definition.

1.127 "Wachovia" shall mean Wachovia Capital Finance Corporation (Western), a California corporation, in its individual capacity, and its successors and assigns.

SECTION 2. CREDIT FACILITIES

2.1 Loans.

(a) Subject to and upon the terms and conditions contained herein, each Lender severally (and not jointly) agrees to make its Pro Rata Share of Revolving Loans to each Borrower from time to time in amounts requested by such Borrower (or Administrative Borrower on behalf of such Borrower) up to the aggregate amount outstanding for all Lenders at any time equal to the lesser of: (i) the Borrowing Base at such time or (ii) the Revolving Loan Limit at such time.

(b) Except in Agent's discretion, with the consent of all Lenders, or as otherwise provided herein, (i) the aggregate amount of the Loans and the Letter of Credit Obligations outstanding at any time shall not exceed the Maximum Credit and (ii) the aggregate principal amount of the Revolving Loans and Letter of Credit Obligations outstanding at any time shall not exceed the lesser of the Borrowing Base or the Revolving Loan Limit.

(c) In the event that (i) the aggregate amount of the Loans and the Letter of Credit Obligations outstanding at any time exceed the Maximum Credit, or (ii) except as otherwise provided herein, the aggregate principal amount of the Revolving Loans and Letter of Credit Obligations outstanding at any time exceed the lesser of the Borrowing Base or the Revolving Loan Limit, such event shall not limit, waive or otherwise affect any rights of Agent or Lenders in such circumstances or on any future occasions and Borrowers shall, upon demand by Agent, which may be made at any time or from time to time, immediately repay to Agent the entire amount of any such excess(es) for which payment is demanded.

2.2 Letters of Credit.

(a) Subject to and upon the terms and conditions contained herein and in the Letter of Credit Documents, at the request of a Borrower (or Administrative Borrower on behalf of such

Borrower), Agent agrees to cause Issuing Bank to issue, and Issuing Bank agrees to issue, for the account of such Borrower one or more Letters of Credit, for the ratable risk of each Lender according to its Pro Rata Share, containing terms and conditions acceptable to such Borrower, Agent and Issuing Bank.

(b) The Borrower requesting such Letter of Credit (or Administrative Borrower on behalf of such Borrower) shall give Agent and Issuing Bank three (3) Business Days' prior written notice of such Borrower' s request for the issuance of a Letter of Credit. Such notice shall be irrevocable and shall specify the original face amount of the Letter of Credit requested, the effective date (which date shall be a Business Day and in no event shall be a date less than ten (10) days prior to the end of the then current term of this Agreement) of issuance of such requested Letter of Credit, whether such Letter of Credit may be drawn in a single or in partial draws, the date on which such requested Letter of Credit is to expire (which date shall be a Business Day and shall not be more than one year from the date of issuance), the purpose for which such Letter of Credit is to be issued, and the beneficiary of the requested Letter of Credit. The Borrower requesting the Letter of Credit (or Administrative Borrower on behalf of such Borrower) shall attach to such notice the proposed terms of the Letter of Credit. The renewal or extension of any Letter of Credit shall, for purposes hereof be treated in all respects the same as the issuance of a new Letter of Credit hereunder.

(c) In addition to being subject to the satisfaction of the applicable conditions precedent contained in Section 4 hereof and the other terms and conditions contained herein, no Letter of Credit shall be available unless each of the following conditions precedent have been satisfied in a manner satisfactory to Agent: (i) the Borrower requesting such Letter of Credit (or Administrative Borrower on behalf of such Borrower) shall have delivered to Issuing Bank at such times and in such manner as Issuing Bank may require, an application, in form and substance satisfactory to Issuing Bank and Agent, for the issuance of the Letter of Credit and such other Letter of Credit Documents as may be required pursuant to the terms thereof, and the form and terms of the proposed Letter of Credit shall be satisfactory to Agent and Issuing Bank, (ii) as of the date of issuance, no order of any court, arbitrator or other Governmental Authority shall purport by its terms to enjoin or restrain money center banks generally from issuing letters of credit of the type and in the amount of the proposed Letter of Credit, and no law, rule or regulation applicable to money center banks generally and no request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over money center banks generally shall prohibit, or request that Issuing Bank refrain from, the issuance of letters of credit generally or the issuance of such Letter of Credit, (iii) after giving effect to the issuance of such Letter of Credit, the Letter of Credit Obligations shall not exceed the Letter of Credit Limit, and (iv) the Excess Availability, prior to giving effect to any Reserves with respect to such Letter of Credit, on the date of the proposed issuance of any Letter of Credit shall be equal to or greater than: (A) if the proposed Letter of Credit is for the purpose of purchasing Eligible Inventory and the documents of title with respect thereto are consigned to Issuing Bank or Agent, the sum of (1) the percentage equal to one hundred (100%) percent minus the then applicable percentage with respect to Eligible Inventory set forth in the definition of the term Borrowing Base multiplied by the Value of such Eligible Inventory, plus (2) freight, taxes, duty and other amounts which Agent estimates must be paid in connection with such Inventory upon arrival and for delivery to one of such Borrower' s locations for Eligible Inventory within the United States of America and (B) if the proposed Letter of Credit is for any other purpose or the documents of

title are not consigned to Issuing Bank or Agent in connection with a Letter of Credit for the purpose of purchasing Inventory, an amount equal to one hundred (100%) percent of the Letter of Credit Obligations with respect thereto. Effective on the issuance of each Letter of Credit, a Reserve shall be established in the applicable amount set forth in Section 2.2(c)(iv)(A) or Section 2.2(c)(iv)(B).

(d) Except in Agent' s discretion, with the consent of all Lenders, the amount of all outstanding Letter of Credit Obligations shall not at any time exceed the Letter of Credit Limit.

(e) Each Borrower shall reimburse immediately Issuing Bank for any draw under any Letter of Credit issued for the account of such Borrower and pay Issuing Bank the amount of all other charges and fees payable to Issuing Bank in connection with any Letter of Credit issued for the account of such Borrower immediately when due, irrespective of any claim, setoff, defense or other right which such Borrower may have at any time against Issuing Bank or any other Person. Each drawing under any Letter of Credit or other amount payable in connection therewith when due shall constitute a request by the Borrower for whose account such Letter of Credit was issued to Agent for a Prime Rate Loan in the amount of such drawing or other amount then due, and shall be made by Agent on behalf of Lenders as a Revolving Loan (or Special Agent Advance, as the case may be). The date of such Loan shall be the date of the drawing or as to other amounts, the due date therefor. Any payments made by or on behalf of Agent or any Lender to Issuing Bank and/or related parties in connection with any Letter of Credit shall constitute additional Revolving Loans to such Borrower pursuant to this Section 2 (or Special Agent Advances as the case may be).

(f) Borrowers and Guarantors shall indemnify and hold Agent and Lenders harmless from and against any and all losses, claims, damages, liabilities, costs and expenses which Agent or any Lender may suffer or incur in connection with any Letter of Credit and any documents, drafts or acceptances relating thereto, including any losses, claims, damages, liabilities, costs and expenses due to any action taken by Issuing Bank or correspondent with respect to any Letter of Credit, except for such losses, claims, damages, liabilities, costs or expenses that are a direct result of the gross negligence or wilful misconduct of Agent or any Lender as determined pursuant to a final non-appealable order of a court of competent jurisdiction. Each Borrower and Guarantor assumes all risks with respect to the acts or omissions of the drawer under or beneficiary of any Letter of Credit and for such purposes the drawer or beneficiary shall be deemed such Borrower' s agent. Each Borrower and Guarantor assumes all risks for, and agrees to pay, all foreign, Federal, State and local taxes, duties and levies relating to any goods subject to any Letter of Credit or any documents, drafts or acceptances thereunder. Each Borrower and Guarantor hereby releases and holds Agent and Lenders harmless from and against any acts, waivers, errors, delays or omissions with respect to or relating to any Letter of Credit, except for the gross negligence or wilful misconduct of Agent or any Lender as determined pursuant to a final, non-appealable order of a court of competent jurisdiction. The provisions of this Section 2.2(f) shall survive the payment of Obligations and the termination of this Agreement.

(g) In connection with Inventory purchased pursuant to any Letter of Credit, Borrowers and Guarantors shall, at Agent' s request, instruct all suppliers, carriers, forwarders, customs brokers, warehouses or others receiving or holding cash, checks, Inventory, documents

or instruments in which Agent holds a security interest that upon Agent's request, such items are to be delivered to Agent and/or subject to Agent's order, and if they shall come into such Borrower's or Guarantor's possession, to deliver them, upon Agent's request, to Agent in their original form. Except as otherwise provided herein, Agent shall not exercise such right to request such items so long as no Default or Event of Default shall exist or have occurred and be continuing. Except as Agent may otherwise specify, Borrowers and Guarantors shall designate Issuing Bank as the consignee on all bills of lading and other negotiable and non-negotiable documents.

(h) Each Borrower and Guarantor hereby irrevocably authorizes and directs Issuing Bank to name such Borrower or Guarantor as the account party therein and to deliver to Agent all instruments, documents and other writings and property received by Issuing Bank pursuant to the Letter of Credit and to accept and rely upon Agent's instructions and agreements with respect to all matters arising in connection with the Letter of Credit or the Letter of Credit Documents with respect thereto. Nothing contained herein shall be deemed or construed to grant any Borrower or Guarantor any right or authority to pledge the credit of Agent or any Lender in any manner. Borrowers and Guarantors shall be bound by any reasonable interpretation made in good faith by Agent, or Issuing Bank under or in connection with any Letters of Credit or any documents, drafts or acceptances thereunder, notwithstanding that such interpretation may be inconsistent with any instructions of any Borrower or Guarantor.

(i) Immediately upon the issuance or amendment of any Letter of Credit, each Lender shall be deemed to have irrevocably and unconditionally purchased and received, without recourse or warranty, an undivided interest and participation to the extent of such Lender's Pro Rata Share of the liability with respect to such Letter of Credit and the obligations of Borrowers with respect thereto (including all Letter of Credit Obligations with respect thereto). Each Lender shall absolutely, unconditionally and irrevocably assume, as primary obligor and not as surety, and be obligated to pay to Issuing Bank therefor and discharge when due, its Pro Rata Share of all of such obligations arising under such Letter of Credit. Without limiting the scope and nature of each Lender's participation in any Letter of Credit, to the extent that Issuing Bank has not been reimbursed or otherwise paid as required hereunder or under any such Letter of Credit, each such Lender shall pay to Issuing Bank its Pro Rata Share of such unreimbursed drawing or other amounts then due to Issuing Bank in connection therewith.

(j) The obligations of Borrowers to pay each Letter of Credit Obligations and the obligations of Lenders to make payments to Agent for the account of Issuing Bank with respect to Letters of Credit shall be absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances, whatsoever, notwithstanding the occurrence or continuance of any Default, Event of Default, the failure to satisfy any other condition set forth in Section 4 or any other event or circumstance. If such amount is not made available by a Lender when due, Agent shall be entitled to recover such amount on demand from such Lender with interest thereon, for each day from the date such amount was due until the date such amount is paid to Agent at the interest rate then payable by any Borrower in respect of Loans that are Prime Rate Loans. Any such reimbursement shall not relieve or otherwise impair the obligation of Borrowers to reimburse Issuing Bank under any Letter of Credit or make any other payment in connection therewith.

2.3 Term Loans.

(a) Subject to and upon the terms and conditions contained herein, each Lender severally (and not jointly) agrees to make Term Loans in an amount equal to its Pro Rata Share of the Term Loans on the date hereof. The aggregate original principal amount of the Term Loans to Borrowers shall be in the amount of \$16,500,000.

(b) Each of the Term Loans is (i) to be repaid, together with interest and other amounts, in accordance with this Agreement, the Term Promissory Note evidencing such Term Loan, and the other Financing Agreements and (ii) secured by all of the Collateral. The principal amount of each of the Term Loans shall be repaid in twenty (20) consecutive installments (or earlier as provided herein) payable on the first day of each December, March, June and September of each year, commencing with December 1, 2005, of which the first nineteen (19) installments shall each be in the aggregate amount of \$687,500 and the last installment shall be in the amount of the entire unpaid balance of such Term Loan; provided, that, the entire unpaid principal amount of Term Loans and all accrued and unpaid interest thereon shall be due and payable on the earlier of the Maturity Date or any other effective date of termination of this Agreement or an Event of Default as provided herein.

2.4 Commitments. The aggregate amount of each Lender' s Pro Rata Share of the Loans and Letter of Credit Obligations shall not exceed the amount of such Lender' s Commitment, as the same may from time to time be amended in accordance with the provisions hereof.

SECTION 3. INTEREST AND FEES

3.1 Interest.

(a) Borrowers shall pay to Agent, for the benefit of Lenders, interest on the outstanding principal amount of the Loans at the Interest Rate. All interest accruing hereunder on and after the date of any Event of Default or termination hereof shall be payable on demand.

(b) Each Borrower (or Administrative Borrower on behalf of such Borrower) may from time to time request Eurodollar Rate Loans or may request that Prime Rate Loans be converted to Eurodollar Rate Loans or that any existing Eurodollar Rate Loans continue for an additional Interest Period. Such request from a Borrower (or Administrative Borrower on behalf of such Borrower) shall specify the amount of the Eurodollar Rate Loans or the amount of the Prime Rate Loans to be converted to Eurodollar Rate Loans or the amount of the Eurodollar Rate Loans to be continued (subject to the limits set forth below) and the Interest Period to be applicable to such Eurodollar Rate Loans. Subject to the terms and conditions contained herein, three (3) Business Days after receipt by Agent of such a request from a Borrower (or Administrative Borrower on behalf of such Borrower), such Eurodollar Rate Loans shall be made or Prime Rate Loans shall be converted to Eurodollar Rate Loans or such Eurodollar Rate Loans shall continue, as the case may be, provided, that, (i) no Default or Event of Default shall exist or have occurred and be continuing, (ii) no party hereto shall have sent any notice of termination of this Agreement, (iii) such Borrower (or Administrative Borrower on behalf of such Borrower) shall have complied with such customary procedures as are established by Agent and specified by Agent to Administrative Borrower from time to time for requests by Borrowers

for Eurodollar Rate Loans, (iv) no more than eight (8) Interest Periods may be in effect at any one time, (v) the aggregate amount of the Eurodollar Rate Loans must be in an amount not less than \$2,000,000 or an integral multiple of \$500,000 in excess thereof, and (vi) Agent and each Lender shall have determined that the Interest Period or Adjusted Eurodollar Rate is available to Agent and such Lender and can be readily determined as of the date of the request for such Eurodollar Rate Loan by such Borrower. Any request by or on behalf of a Borrower for Eurodollar Rate Loans or to convert Prime Rate Loans to Eurodollar Rate Loans or to continue any existing Eurodollar Rate Loans shall be irrevocable. Notwithstanding anything to the contrary contained herein, Agent and Lenders shall not be required to purchase United States Dollar deposits in the London interbank market or other applicable Eurodollar Rate market to fund any Eurodollar Rate Loans, but the provisions hereof shall be deemed to apply as if Agent and Lenders had purchased such deposits to fund the Eurodollar Rate Loans.

(c) Any Eurodollar Rate Loans shall automatically convert to Prime Rate Loans upon the last day of the applicable Interest Period, unless Agent has received and approved a request to continue such Eurodollar Rate Loan at least three (3) Business Days prior to such last day in accordance with the terms hereof. Any Eurodollar Rate Loans shall, at Agent's option, upon notice by Agent to Parent, be subsequently converted to Prime Rate Loans in the event that this Agreement shall terminate or not be renewed. Borrowers shall pay to Agent, for the benefit of Lenders, upon demand by Agent (or Agent may, at its option, charge any loan account of any Borrower) any amounts required to compensate any Lender or Participant for any loss (including loss of anticipated profits), cost or expense incurred by such person, as a result of the conversion of Eurodollar Rate Loans to Prime Rate Loans pursuant to any of the foregoing.

(d) Interest on Prime Rate Loans shall be payable by Borrowers to Agent, for the account of Lenders, monthly in arrears not later than the first day of each calendar month and shall be calculated on the basis of a three hundred sixty-five (365) or three hundred sixty-six (366) day year, as applicable, and actual days elapsed.

(e) Interest on Eurodollar Rate Loans shall be payable by Borrowers to Agent, for the account of Lenders, in arrears on the last day of the Interest Period applicable to such Eurodollar Rate Loans and, if such Interest Period has a duration of more than three months, on each day that occurs during such Interest Period every three months from the first day of such Interest Period and on the date such Eurodollar Rate Loan shall be converted or paid in full and shall be calculated on the basis of a three hundred sixty (360) day year and actual days elapsed.

(f) The interest rate on non-contingent Obligations (other than Eurodollar Rate Loans) shall increase or decrease by an amount equal to each increase or decrease in the Prime Rate effective on the date of any change in such Prime Rate. In no event shall charges constituting interest payable by Borrowers to Agent and Lenders exceed the maximum amount or the rate permitted under any applicable law or regulation, and if any such part or provision of this Agreement is in contravention of any such law or regulation, such part or provision shall be deemed amended to conform thereto.

3.2 Fees.

(a) Borrowers shall pay to Agent, for the account of Lenders, quarterly an unused line fee at a rate equal to the percentage (on a per annum basis) set forth below calculated upon the amount by which the Revolving Loan Limit exceeds the Quarterly Average Revolving Obligations during the immediately preceding quarter (or part thereof) while this Agreement is in effect and for so long thereafter as any of the Obligations are outstanding. Such fee shall be payable on the first day of each calendar quarter in arrears. The percentage used for determining the unused line fee shall be as set forth below if the Quarterly Average Revolving Obligations for the immediately preceding calendar quarter is at or within the amounts indicated for such percentage:

Tier	Quarterly Average Revolving Obligations	Unused Line Fee Percentage	
1	Greater than or equal to \$20,000,000	.250	%
2	Less than \$20,000,000 and greater than or equal to \$10,000,000	.375	%
3	Less than \$10,000,000	.500	%

provided, that, (i) the unused line fee percentage shall be calculated and established based on the foregoing once each calendar quarter, (ii) each adjustment of the unused line fee percentage shall be effective as of the first day of a calendar quarter based on the Quarterly Average Revolving Obligations for the immediately preceding calendar quarter and (iii) the unused line fee until the last day of the second (2nd) full calendar quarter after the date hereof shall be the amount set forth in Tier 2 above.

(b) Borrowers shall pay to Agent, for the account of Lenders, a fee at a rate equal to the Applicable L/C Rate per annum on the average daily maximum amount available to be drawn under Letters of Credit for the immediately preceding quarter (or part thereof), payable in arrears as of the first day of each succeeding calendar quarter, except that Borrowers shall pay, at Agent's option or at the request of the Required Lenders, after notice by Agent to Administrative Borrower, such fee at a rate two (2%) percent greater than the otherwise applicable rate on such average daily maximum amount for: (i) the period from and after the date of termination or non-renewal hereof until Lenders have received full and final payment of all Obligations (notwithstanding entry of a judgment against any Borrower or Guarantor) and (ii) the period from and after the date of the occurrence of an Event of Default for so long as such Event of Default is continuing. Agent may send such notice of its option or shall send such notice at the request of Required Lenders. Such letter of credit fees shall be calculated on the basis of a three hundred sixty (360) day year and actual days elapsed and the obligation of Borrowers to pay such fee shall survive the termination or non-renewal of this Agreement. In addition to the letter of credit fees provided above, Borrowers shall pay to the Issuing Bank for its own account (without sharing with Lenders) the letter of credit fronting and negotiation fees agreed to by Borrowers and Issuing Bank from time to time and the customary charges from time to time of Issuing Bank with respect to the issuance, amendment, transfer, administration, cancellation and conversion of, and drawings under, such Letters of Credit.

(c) Borrowers shall pay to Agent the other fees and amounts set forth in the Fee Letter in the amounts and at the times specified therein. To the extent payment in full of the applicable fee is received by Agent from Borrowers on or about the date hereof, Agent shall pay to each Lender its share of such fees in accordance with the terms of the arrangements of Agent with such Lender.

3.3 Changes in Laws and Increased Costs of Loans.

(a) If after the date hereof, either (i) any change in, or in the interpretation of, any law or regulation is introduced, including, without limitation, with respect to reserve requirements, applicable to any Lender or any banking or financial institution from whom any Lender borrows funds or obtains credit (a "Funding Bank"), or (ii) a Funding Bank or any Lender complies with any future guideline or request from any central bank or other Governmental Authority or (iii) a Funding Bank, any Lender or Issuing Bank determines that the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof has or would have the effect described below, or a Funding Bank, any Lender or Issuing Bank complies with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, and in the case of any event set forth in this clause (iii), such adoption, change or compliance has or would have the direct or indirect effect of reducing the rate of return on any Lender's or Issuing Bank's capital as a consequence of its obligations hereunder to a level below that which such Lender or Issuing Bank could have achieved but for such adoption, change or compliance (taking into consideration the Funding Bank's or Lender's or Issuing Bank's policies with respect to capital adequacy) by an amount deemed by such Lender or Issuing Bank to be material, and the result of any of the foregoing events described in clauses (i), (ii) or (iii) is or results in an increase in the cost to any Lender or Issuing Bank of funding or maintaining the Loans, the Letters of Credit or its Commitment, then Borrowers and Guarantors shall from time to time upon demand by Agent pay to Agent additional amounts sufficient to indemnify such Lender or Issuing Bank, as the case may be, against such increased cost on an after-tax basis (after taking into account applicable deductions and credits in respect of the amount indemnified). A certificate as to the amount of such increased cost and that in general similarly situated borrowers from Agent or the applicable Lender are being similarly treated shall be submitted to Administrative Borrower by Agent or the applicable Lender and shall be conclusive, absent manifest error.

(b) If prior to the first day of any Interest Period, (i) Agent shall have determined in good faith (which determination shall be conclusive and binding upon Borrowers and Guarantors) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Adjusted Eurodollar Rate for such Interest Period, (ii) Agent has received notice from the Required Lenders that the Adjusted Eurodollar Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to Lenders of making or maintaining Eurodollar Rate Loans during such Interest Period, or (iii) Dollar deposits in the principal amounts of the Eurodollar Rate Loans to which

such Interest Period is to be applicable are not generally available in the London interbank market, Agent shall give telecopy or telephonic notice thereof to Administrative Borrower as soon as practicable thereafter, and will also give prompt written notice to Administrative Borrower when such conditions no longer exist. If such notice is given (A) any Eurodollar Rate Loans requested to be made on the first day of such Interest Period shall be made as Prime Rate Loans, (B) any Loans that were to have been converted on the first day of such Interest Period to or continued as Eurodollar Rate Loans shall be converted to or continued as Prime Rate Loans and (C) each outstanding Eurodollar Rate Loan shall be converted, on the last day of the then-current Interest Period thereof, to Prime Rate Loans. Until such notice has been withdrawn by Agent, no further Eurodollar Rate Loans shall be made or continued as such, nor shall any Borrower (or Administrative Borrower on behalf of any Borrower) have the right to convert Prime Rate Loans to Eurodollar Rate Loans.

(c) Notwithstanding any other provision herein, if the adoption of or any change in any law, treaty, rule or regulation or final, non-appealable determination of an arbitrator or a court or other Governmental Authority or in the interpretation or application thereof occurring after the date hereof shall make it unlawful for Agent or any Lender to make or maintain Eurodollar Rate Loans as contemplated by this Agreement, (i) Agent or such Lender shall promptly give written notice of such circumstances to Administrative Borrower (which notice shall be withdrawn whenever such circumstances no longer exist), (ii) the commitment of such Lender hereunder to make Eurodollar Rate Loans, continue Eurodollar Rate Loans as such and convert Prime Rate Loans to Eurodollar Rate Loans shall forthwith be canceled and, until such time as it shall no longer be unlawful for such Lender to make or maintain Eurodollar Rate Loans, such Lender shall then have a commitment only to make a Prime Rate Loan when a Eurodollar Rate Loan is requested and (iii) such Lender's Loans then outstanding as Eurodollar Rate Loans, if any, shall be converted automatically to Prime Rate Loans on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by law. If any such conversion of a Eurodollar Rate Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, Borrowers and Guarantors shall pay to such Lender such amounts, if any, as may be required pursuant to Section 3.3(d) below.

(d) Borrowers and Guarantors shall indemnify Agent and each Lender and to hold Agent and each Lender harmless from any loss or expense which Agent or such Lender may sustain or incur as a consequence of (i) default by any Borrower in making a borrowing of, conversion into or extension of Eurodollar Rate Loans after such Borrower (or Administrative Borrower on behalf of such Borrower) has given a notice requesting the same in accordance with the provisions of this Agreement, (ii) default by any Borrower in making any prepayment of a Eurodollar Rate Loan after such Borrower has given a notice thereof in accordance with the provisions of this Agreement, and (iii) the making of a prepayment of Eurodollar Rate Loans on a day which is not the last day of an Interest Period with respect thereto. With respect to Eurodollar Rate Loans, such indemnification may include an amount equal to the excess, if any, of (A) the amount of interest which would have accrued on the amount so prepaid, or not so borrowed, converted or extended, for the period from the date of such prepayment or of such failure to borrow, convert or extend to the last day of the applicable Interest Period (or, in the case of a failure to borrow, convert or extend, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Eurodollar Rate

Loans provided for herein over (B) the amount of interest (as determined by such Agent or such Lender) which would have accrued to Agent or such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank Eurodollar market. This covenant shall survive the termination or non-renewal of this Agreement and the payment of the Obligations.

SECTION 4. CONDITIONS PRECEDENT

4.1 Conditions Precedent to Initial Loans and Letters of Credit. The obligation of Lenders to make the initial Loans or of Issuing Bank to issue the initial Letters of Credit hereunder is subject to the satisfaction of, or waiver of, immediately prior to or concurrently with the making of such Loan or the issuance of such Letter of Credit of each of the following conditions precedent:

(a) all requisite corporate action and proceedings in connection with this Agreement and the other Financing Agreements shall be satisfactory in form and substance to Agent, and Agent shall have received all information and copies of all documents, including records of requisite corporate action and proceedings which Agent may have requested in connection therewith, such documents where requested by Agent or its counsel to be certified by appropriate corporate officers or Governmental Authority (and including a copy of the certificate of incorporation of each Borrower and Guarantor certified by the Secretary of State (or equivalent Governmental Authority) which shall set forth the same complete corporate name of such Borrower or Guarantor as is set forth herein and such document as shall set forth the organizational identification number of each Borrower or Guarantor, if one is issued in its jurisdiction of incorporation);

(b) no material adverse change shall have occurred in the assets, business or prospects of Borrowers since the date of Agent's latest field examination (not including for this purpose the field review referred to in clause (c) below) and no change or event shall have occurred which would impair the ability of any Borrower or Guarantor to perform its obligations hereunder or under any of the other Financing Agreements to which it is a party or of Agent or any Lender to enforce the Obligations or realize upon the Collateral;

(c) Agent shall have completed a field review of the Records and such other information with respect to the Collateral as Agent may require to determine the amount of Loans available to Borrowers (including, without limitation, current perpetual inventory records and/or roll-forwards of Accounts and Inventory through the date of closing and test counts of the Inventory in a manner satisfactory to Agent, together with such supporting documentation as may be necessary or appropriate, and other documents and information that will enable Agent to accurately identify and verify the Collateral), the results of which in each case shall be satisfactory to Agent, not more than three (3) Business Days prior to the date hereof or such earlier date as Agent may agree;

(d) Agent shall have received, in form and substance satisfactory to Agent, all consents, waivers, acknowledgments and other agreements from third persons which Agent may deem necessary or desirable in order to permit, protect and perfect its security interests in and liens upon the Collateral or to effectuate the provisions or purposes of this Agreement and the other Financing Agreements (provided, that, the foregoing shall not include Collateral Access Agreements for locations of Inventory at premises owned and operated by third parties);

(e) the Excess Availability as determined by Agent, as of the date hereof, shall be not less than \$25,000,000 after giving effect to the initial Loans made or to be made and Letters of Credit issued or to be issued in connection with the initial transactions hereunder;

(f) the EBITDA of Parent and Domestic Subsidiaries (on a consolidated basis) for the twelve (12) consecutive fiscal month period ending August 27, 2005 shall be not less than \$15,000,000, as determined by Agent;

(g) Agent shall have received a Borrowing Base Certificate setting forth the Borrowing Base as at the date set forth therein and completed in a manner reasonably satisfactory to Agent and duly authorized, executed and delivered by Borrowers;

(h) Agent shall have received, in form and substance satisfactory to Agent, Deposit Account Control Agreements and Investment Property Control Agreements by and among Agent, each Borrower and Guarantor, as the case may be and each bank, securities intermediary or other Person where such Borrower (or Guarantor) has a deposit account, investment account or other account, in each case, duly authorized, executed and delivered by such bank, securities intermediary or other Person and Borrower or Guarantor, as the case may be;

(i) Agent shall have received evidence, in form and substance satisfactory to Agent, that Agent has a valid perfected first priority security interest in all of the Collateral;

(j) Agent shall have received and reviewed lien and judgment search results for the jurisdiction of organization of each Borrower and Guarantor, the jurisdiction of the chief executive office of each Borrower and Guarantor and all jurisdictions in which assets of Borrowers and Guarantors are located, which search results shall be in form and substance satisfactory to Agent;

(k) Agent shall have received environmental audits of the Real Property to be subject to the Mortgage conducted by an independent environmental engineering firm acceptable to Agent, and in form, scope and methodology satisfactory to Agent, the results of which shall be satisfactory to Agent;

(l) Agent shall have received, in form and substance satisfactory to Agent, a valid and effective title insurance policy issued by a company acceptable to Agent: (i) insuring the priority, amount and sufficiency of the Mortgage, (ii) insuring against matters that would be disclosed by surveys and (iii) containing any legally available endorsements, assurances or affirmative coverage requested by Agent for protection of its interests;

(m) Agent shall have received originals of the stock certificates representing all of the issued and outstanding shares of the Capital Stock of the direct Subsidiaries of each Borrower and Guarantor (in each case together with stock powers duly executed in blank with respect thereto);

(n) Agent shall have received evidence of insurance and loss payee endorsements required hereunder and under the other Financing Agreements, in form and substance satisfactory to Agent, and certificates of insurance policies and/or endorsements naming Agent as loss payee;

(o) Agent shall have received evidence that the EPC Acquisition Documents have been duly authorized, executed and delivered by and to the appropriate parties thereto and that the EPC Acquisition and the transactions contemplated under the terms and conditions of the EPC Acquisition Documents have been consummated prior to or contemporaneously with the execution of this Agreement;

(p) Agent shall have received true and complete copies of the EPC Acquisition Documents and all notices, consents, instruments, documents and agreements relating thereto, including all exhibits and schedules thereto, all as duly executed and delivered by the parties thereto;

(q) Agent shall have received, in form and substance satisfactory to Agent, such opinion letters of counsel to Parent and its Subsidiaries with respect to the Financing Agreements and such other matters as Agent may request; and

(r) the other Financing Agreements and all instruments and documents hereunder and thereunder shall have been duly executed and delivered to Agent, in form and substance satisfactory to Agent.

4.2 Conditions Precedent to All Loans and Letters of Credit. The obligation of Lenders to make the Loans, including the initial Loans, or of Issuing Bank to issue any Letter of Credit, including the initial Letters of Credit, is subject to the further satisfaction of, or waiver of, immediately prior to or concurrently with the making of each such Loan or the issuance of such Letter of Credit of each of the following conditions precedent:

(a) all representations and warranties contained herein and in the other Financing Agreements shall be true and correct with the same effect as though such representations and warranties had been made on and as of the date of the making of each such Loan or providing each such Letter of Credit and after giving effect thereto, except to the extent that such representations and warranties expressly relate solely to an earlier date (in which case such representations and warranties shall have been true and accurate on and as of such earlier date);

(b) no law, regulation, order, judgment or decree of any Governmental Authority shall exist, and no action, suit, investigation, litigation or proceeding shall be pending or threatened in any court or before any arbitrator or Governmental Authority, which (i) purports to enjoin, prohibit, restrain or otherwise affect (A) the making of the Loans or providing the Letters of Credit, or (B) the consummation of the transactions contemplated pursuant to the terms hereof or the other Financing Agreements or (ii) has or has a reasonable likelihood of having a Material Adverse Effect except for (A) the pending shareholder derivative complaints filed, purportedly on behalf of Parent, in the Circuit Court for the State of Oregon, County of Multnomah, against the executive officers and directors of Parent and (B) the securities class action complaints filed in the United States District Court for the District of Oregon against Parent and certain of its executive officers and directors, in each case as described in Section 8.6 of the Information Certificate; and

(c) no Default or Event of Default shall exist or have occurred and be continuing on and as of the date of the making of such Loan or providing each such Letter of Credit and after giving effect thereto.

SECTION 5. GRANT AND PERFECTION OF SECURITY INTEREST

5.1 Grant of Security Interest.

(a) To secure payment and performance of all Obligations, each Borrower and Guarantor hereby grants to Agent, for itself and the benefit of the Secured Parties, a continuing security interest in, a lien upon, and a right of set off against, and hereby assigns to Agent, for itself and the benefit of the Secured Parties, as security, all personal and real property and fixtures, and interests in property and fixtures, of each Borrower and Guarantor, whether now owned or hereafter acquired or existing, and wherever located (together with all other collateral security for the Obligations at any time granted to or held or acquired by Agent or any Secured Party, collectively, the "Collateral"), including:

(i) all Accounts;

(ii) all general intangibles, including, without limitation, all Intellectual Property;

(iii) all goods, including, without limitation, Inventory and Equipment;

(iv) all Real Property at any time subject to the Mortgage and fixtures;

(v) all chattel paper, including, without limitation, all tangible and electronic chattel paper;

(vi) all instruments, including, without limitation, all promissory notes;

(vii) all documents;

(viii) all deposit accounts;

(ix) all letters of credit, banker' s acceptances and similar instruments and including all letter-of-credit rights;

(x) all supporting obligations and all present and future liens, security interests, rights, remedies, title and interest in, to and in respect of Receivables and other Collateral, including (A) rights and remedies under or relating to guaranties, contracts of suretyship, letters of credit and credit and other insurance related to the Collateral, (B) rights of stoppage in transit, replevin, repossession, reclamation and other rights and remedies of an unpaid vendor, lienor or secured party, (C) goods described in invoices, documents, contracts or instruments with respect to, or otherwise representing or evidencing, Receivables or other Collateral, including returned, repossessed and reclaimed goods, and (D) deposits by and property of account debtors or other persons securing the obligations of account debtors;

(xi) all (A) investment property (including securities, whether certificated or uncertificated, securities accounts, security entitlements, commodity contracts or commodity accounts) and (B) monies, credit balances, deposits and other property of any Borrower or Guarantor now or hereafter held or received by or in transit to Agent, any Lender or its Affiliates or at any other depository or other institution from or for the account of any Borrower or Guarantor, whether for safekeeping, pledge, custody, transmission, collection or otherwise;

(xii) all commercial tort claims, including, without limitation, those identified in the Information Certificate;

(xiii) to the extent not otherwise described above, all Receivables;

(xiv) all Records; and

(xv) all products and proceeds of the foregoing, in any form, including insurance proceeds and all claims against third parties for loss or damage to or destruction of or other involuntary conversion of any kind or nature of any or all of the other Collateral.

(b) Notwithstanding anything to the contrary contained in Section 5.1(a) above, the types or items of Collateral described in such Section shall not include (i) the portion of the Capital Stock of any Foreign Subsidiary that is a “controlled foreign corporation” (as such term is defined in Section 957(a) of the Code or a successor provision thereof) in excess of sixty-five (65%) percent of the voting power of all classes of Capital Stock of such issuer entitled to vote (within the meaning of Treasury Regulation Section 1.956-2) if it would have material adverse tax consequences for such Borrower or Guarantor or (ii) the business interruption insurance of Borrowers and Guarantors.

5.2 Perfection of Security Interests.

(a) Each Borrower and Guarantor irrevocably and unconditionally authorizes Agent (or its agent) to file at any time and from time to time such financing statements with respect to the Collateral naming Agent or its designee as the secured party and such Borrower or Guarantor as debtor, as Agent may require, and including any other information with respect to such Borrower or Guarantor or otherwise required by part 5 of Article 9 of the Uniform Commercial Code of such jurisdiction as Agent may determine, together with any amendment and continuations with respect thereto, which authorization shall apply to all financing statements filed on, prior to or after the date hereof. Each Borrower and Guarantor hereby ratifies and approves all financing statements naming Agent or its designee as secured party and such Borrower or Guarantor, as the case may be, as debtor with respect to the Collateral (and any amendments with respect to such financing statements) filed by or on behalf of Agent prior to the date hereof and ratifies and confirms the authorization of Agent to file such financing statements (and amendments, if any). Each Borrower and Guarantor hereby authorizes Agent to adopt on behalf of such Borrower and Guarantor any symbol required for authenticating any electronic filing. In the event that the description of the collateral in any financing statement naming Agent or its designee as the secured party and any Borrower or Guarantor as debtor includes assets and

properties of such Borrower or Guarantor that do not at any time constitute Collateral, whether hereunder, under any of the other Financing Agreements or otherwise, the filing of such financing statement shall nonetheless be deemed authorized by such Borrower or Guarantor to the extent of the Collateral included in such description and it shall not render the financing statement ineffective as to any of the Collateral or otherwise affect the financing statement as it applies to any of the Collateral. In no event shall any Borrower or Guarantor at any time file, or permit or cause to be filed, any correction statement or termination statement with respect to any financing statement (or amendment or continuation with respect thereto) naming Agent or its designee as secured party and such Borrower or Guarantor as debtor.

(b) Each Borrower and Guarantor does not have any chattel paper (whether tangible or electronic) or instruments as of the date hereof, except as set forth in the Information Certificate. In the event that any Borrower or Guarantor shall be entitled to or shall receive any chattel paper or instrument after the date hereof, Borrowers and Guarantors shall promptly notify Agent thereof in writing. Promptly upon the receipt thereof by or on behalf of any Borrower or Guarantor (including by any agent or representative), such Borrower or Guarantor shall deliver, or cause to be delivered to Agent, all tangible chattel paper and instruments that such Borrower or Guarantor has or may at any time acquire, accompanied by such instruments of transfer or assignment duly executed in blank as Agent may from time to time specify, in each case except as Agent may otherwise agree. At Agent's option, each Borrower and Guarantor shall, or Agent may at any time on behalf of any Borrower or Guarantor, cause the original of any such instrument or chattel paper to be conspicuously marked in a form and manner acceptable to Agent with the following legend referring to chattel paper or instruments as applicable: "This [chattel paper][instrument] is subject to the security interest of Wachovia Capital Finance Corporation (Western), as Agent and any sale, transfer, assignment or encumbrance of this [chattel paper][instrument] violates the rights of such secured party."

(c) In the event that any Borrower or Guarantor shall at any time hold or acquire an interest in any electronic chattel paper or any "transferable record" (as such term is defined in Section 201 of the Federal Electronic Signatures in Global and National Commerce Act or in Section 16 of the Uniform Electronic Transactions Act as in effect in any relevant jurisdiction), such Borrower or Guarantor shall promptly notify Agent thereof in writing. Promptly upon Agent's request, such Borrower or Guarantor shall take, or cause to be taken, such actions as Agent may request to give Agent control of such electronic chattel paper under Section 9-105 of the UCC and control of such transferable record under Section 201 of the Federal Electronic Signatures in Global and National Commerce Act or, as the case may be, Section 16 of the Uniform Electronic Transactions Act, as in effect in such jurisdiction.

(d) Each Borrower and Guarantor does not have any deposit accounts as of the date hereof, except as set forth in the Information Certificate. Borrowers and Guarantors shall not, directly or indirectly, after the date hereof open, establish or maintain any deposit account unless each of the following conditions is satisfied: (i) Agent shall have received not less than five (5) Business Days prior written notice of the intention of any Borrower or Guarantor to open or establish such account which notice shall specify in reasonable detail and specificity acceptable to Agent the name of the account, the owner of the account, the name and address of the bank at which such account is to be opened or established, the individual at such bank with whom such Borrower or Guarantor is dealing and the purpose of the account, (ii) the bank where such

account is opened or maintained shall be reasonably acceptable to Agent, and (iii) on or before the opening of such deposit account, such Borrower or Guarantor shall deliver to Agent a Deposit Account Control Agreement with respect to such deposit account duly authorized, executed and delivered by such Borrower or Guarantor and the bank at which such deposit account is opened and maintained. The terms of this subsection (d) shall not apply to deposit accounts specifically and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of any Borrower's or Guarantor's salaried employees.

(e) No Borrower or Guarantor owns or holds, directly or indirectly, beneficially or as record owner or both, any investment property, as of the date hereof, or have any investment account, securities account, commodity account or other similar account with any bank or other financial institution or other securities intermediary or commodity intermediary as of the date hereof, in each case except as set forth in the Information Certificate.

(i) In the event that any Borrower or Guarantor shall be entitled to or shall at any time after the date hereof hold or acquire any certificated securities, such Borrower or Guarantor shall promptly endorse, assign and deliver the same to Agent, accompanied by such instruments of transfer or assignment duly executed in blank as Agent may from time to time specify; provided, that, if such certificated securities constitute shares of Capital Stock of a Foreign Subsidiary constituting a "controlled foreign corporation" (as such term is defined in Section 957(a) of the Code or a successor provision thereof), then such Borrower or Guarantor shall not be required to endorse, assign or deliver to Agent those certificates representing the number of shares of the issuer thereof exceeding sixty-five (65%) percent of the voting power of all classes of Capital Stock of such issuer entitled to vote if it would have material adverse tax consequences for such Borrowers or Guarantor. If any securities, now or hereafter acquired by any Borrower or Guarantor are uncertificated and are issued to such Borrower or Guarantor or its nominee directly by the issuer thereof, such Borrower or Guarantor shall immediately notify Agent thereof and shall subject to the proviso contained in the immediately preceding sentence, cause the issuer to agree (in form and substance satisfactory to Agent) to comply with instructions from Agent as to such securities, without further consent of any Borrower or Guarantor or such nominee.

(ii) Borrowers and Guarantors shall not, directly or indirectly, after the date hereof open, establish or maintain any investment account, securities account, commodity account or any other similar account (other than a deposit account) with any securities intermediary or commodity intermediary unless each of the following conditions is satisfied: (A) Agent shall have received not less than five (5) Business Days prior written notice of the intention of such Borrower or Guarantor to open or establish such account which notice shall specify in reasonable detail and specificity acceptable to Agent the name of the account, the owner of the account, the name and address of the securities intermediary or commodity intermediary at which such account is to be opened or established, the individual at such intermediary with whom such Borrower or Guarantor is dealing and the purpose of the account, (B) the securities intermediary or commodity intermediary (as the case may be) where such account is opened or maintained shall be acceptable to Agent, and (C) on or before the opening of such investment account, securities account or other similar account with a securities intermediary or commodity intermediary, such Borrower or Guarantor shall execute and deliver, and cause to be executed and delivered to Agent, an Investment Property Control Agreement with respect thereto duly authorized, executed and delivered by such Borrower or Guarantor and such securities intermediary or commodity intermediary.

(f) Borrowers and Guarantors are not the beneficiary or otherwise entitled to any right to payment under any letter of credit, banker' s acceptance or similar instrument as of the date hereof, except as set forth in the Information Certificate. In the event that any Borrower or Guarantor shall be entitled to or shall receive any right to payment under any letter of credit, banker' s acceptance or any similar instrument, whether as beneficiary thereof or otherwise after the date hereof, such Borrower or Guarantor shall promptly notify Agent thereof in writing. Such Borrower or Guarantor shall immediately, as Agent may specify, either (i) deliver, or cause to be delivered to Agent, with respect to any such letter of credit, banker' s acceptance or similar instrument, the written agreement of the issuer and any other nominated person obligated to make any payment in respect thereof (including any confirming or negotiating bank), in form and substance satisfactory to Agent, consenting to the assignment of the proceeds of the letter of credit to Agent by such Borrower or Guarantor and agreeing to make all payments thereon directly to Agent or as Agent may otherwise direct or (ii) cause Agent to become, at Borrowers' expense, the transferee beneficiary of the letter of credit, banker' s acceptance or similar instrument (as the case may be).

(g) Borrowers and Guarantors do not have any commercial tort claims as of the date hereof, except as set forth in the Information Certificate. In the event that any Borrower or Guarantor shall at any time after the date hereof have any commercial tort claims, such Borrower or Guarantor shall promptly notify Agent thereof in writing, which notice shall (i) set forth in reasonable detail the basis for and nature of such commercial tort claim and (ii) include the express grant by such Borrower or Guarantor to Agent of a security interest in such commercial tort claim (and the proceeds thereof). In the event that such notice does not include such grant of a security interest, the sending thereof by such Borrower or Guarantor to Agent shall be deemed to constitute such grant to Agent. Upon the sending of such notice, any commercial tort claim described therein shall constitute part of the Collateral and shall be deemed included therein. Without limiting the authorization of Agent provided in Section 5.2(a) hereof or otherwise arising by the execution by such Borrower or Guarantor of this Agreement or any of the other Financing Agreements, Agent is hereby irrevocably authorized from time to time and at any time to file such financing statements naming Agent or its designee as secured party and such Borrower or Guarantor as debtor, or any amendments to any financing statements, covering any such commercial tort claim as Collateral. In addition, each Borrower and Guarantor shall promptly upon Agent' s request, execute and deliver, or cause to be executed and delivered, to Agent such other agreements, documents and instruments as Agent may require in connection with such commercial tort claim.

(h) Borrowers and Guarantors do not have any goods, documents of title or other Collateral in the custody, control or possession of a third party as of the date hereof, except as set forth in the Information Certificate and except for goods in transit to a location of a Borrower or Guarantor permitted herein in the ordinary course of business of such Borrower or Guarantor in the possession of the carrier transporting such goods. In the event that any goods, documents of title or other Collateral collectively having a value in excess of \$100,000 are at any time after the date hereof in the custody, control or possession of any other person not referred to in the Information Certificate or such carriers, Borrowers and Guarantors shall promptly notify Agent

thereof in writing. Promptly upon Agent's request, Borrowers and Guarantors shall deliver to Agent a Collateral Access Agreement duly authorized, executed and delivered by such person and the Borrower or Guarantor that is the owner of such Collateral.

(i) Borrowers and Guarantors shall take any other actions reasonably requested by Agent from time to time to cause the attachment, perfection and first priority of, and the ability of Agent to enforce, the security interest of Agent in any and all of the Collateral, including, without limitation, (i) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the UCC or other applicable law, to the extent, if any, that any Borrower's or Guarantor's signature thereon is required therefor, (ii) causing Agent's name to be noted as secured party on any certificate of title for a titled good if such notation is a condition to attachment, perfection or priority of, or ability of Agent to enforce, the security interest of Agent in such Collateral, (iii) complying with any provision of any statute, regulation or treaty of the United States as to any Collateral if compliance with such provision is a condition to attachment, perfection or priority of, or ability of Agent to enforce, the security interest of Agent in such Collateral, (iv) obtaining the consents and approvals of any Governmental Authority or third party, including, without limitation, any consent of any licensor, lessor or other person obligated on Collateral, and taking all actions required by any earlier versions of the UCC or by other law, as applicable in any relevant jurisdiction.

SECTION 6. COLLECTION AND ADMINISTRATION

6.1 Borrowers' Loan Accounts. Agent shall maintain one or more loan account(s) on its books in which shall be recorded (a) all Loans, Letters of Credit and other Obligations and the Collateral, (b) all payments made by or on behalf of any Borrower or Guarantor and (c) all other appropriate debits and credits as provided in this Agreement, including fees, charges, costs, expenses and interest. All entries in the loan account(s) shall be made in accordance with Agent's customary practices as in effect from time to time.

6.2 Statements. Agent shall render to Administrative Borrower each month a statement setting forth the balance in the Borrowers' loan account(s) maintained by Agent for Borrowers pursuant to the provisions of this Agreement, including principal, interest, fees, costs and expenses. Each such statement shall be subject to subsequent adjustment by Agent but shall, absent manifest errors or omissions, be considered correct and deemed accepted by Borrowers and Guarantors and conclusively binding upon Borrowers and Guarantors as an account stated except to the extent that Agent receives a written notice from Administrative Borrower of any specific exceptions of Administrative Borrower thereto within thirty (30) days after the date such statement has been received by Parent. Until such time as Agent shall have rendered to Administrative Borrower a written statement as provided above, the balance in any Borrower's loan account(s) shall be presumptive evidence of the amounts due and owing to Agent and Lenders by Borrowers and Guarantors.

6.3 Collection of Accounts; Cash Management

(a) Borrowers shall establish and maintain, at their expense, blocked accounts or lockboxes and related blocked accounts (in either case, "Blocked Accounts"), as Agent may specify, with such banks as are acceptable to Agent into which Borrowers shall promptly deposit

and direct their respective account debtors to directly remit all payments on Receivables and all payments constituting proceeds of Inventory or other Collateral in the identical form in which such payments are made, whether by cash, check or other manner.

(b) Borrowers shall deliver, or cause to be delivered, to Agent a Deposit Account Control Agreement duly authorized, executed and delivered by each bank where a Blocked Account is maintained as provided in Section 5.2 hereof or at any time and from time to time Agent may become the bank's customer with respect to any of the Blocked Accounts and promptly upon Agent's request, Borrowers shall execute and deliver such agreements and documents as Agent may require in connection therewith. Agent shall instruct the depository banks at which the Blocked Accounts are maintained to transfer the funds on deposit in the Blocked Accounts to such operating bank account of Borrowers as Borrowers may specify in writing to Agent until such time as Agent shall notify the depository bank otherwise.

(c) Without limiting any other rights or remedies of Agent or Lenders, at any time on and after a Cash Dominion Event, and for so long as the same is continuing, Agent may, at its option, instruct the depository banks at which the Blocked Accounts are maintained to transfer by federal funds wire transfer all funds received or deposited into such Blocked Accounts and related deposit accounts to the Agent Payment Account or as Agent may direct. Each Borrower and Guarantor agrees that all payments made to such Blocked Accounts upon or after a Cash Dominion Event and for so long as the same is continuing or other funds received and collected by Agent or any Lender at any time, whether in respect of the Receivables, as proceeds of Inventory or other Collateral or otherwise shall be treated as payments to Agent and Lenders in respect of the Obligations and therefore shall constitute the property of Agent and Lenders to the extent of the then outstanding Obligations. Upon the written request of Administrative Borrower promptly after the termination of a Cash Dominion Event, Agent shall instruct the depository banks at which the Blocked Accounts are maintained to transfer the funds received or deposited in such accounts to such operating bank account of the applicable Borrower as Administrative Borrower may specify in writing to Agent until such time as Agent may thereafter be entitled to instruct the depository bank otherwise as provided above.

(d) Without limiting any other rights or remedies of Agent or Lenders, Agent may, at its option, send a "notice of exclusive control" or similar notice and otherwise instruct the securities intermediary or other Person party to an Investment Property Control Agreement that no funds in any investment account or other account subject to such agreement may be transferred except to the Blocked Accounts or otherwise paid to the Agent Payment Account at any time on or after a Cash Dominion Event and for so long as the same is continuing or at any time on or after Agent receives a notice of the intention of the securities intermediary or other party thereto to terminate such Investment Property Control Agreement.

(e) For purposes of calculating the amount of the Loans available to each Borrower, such payments will be applied (conditional upon final collection) to the Obligations on the Business Day of receipt by Agent of immediately available funds in the Agent Payment Account provided such payments and notice thereof are received in accordance with Agent's usual and customary practices as in effect from time to time and within sufficient time to credit such Borrower's loan account on such day, and if not, then on the next Business Day. For the purposes of calculating interest on the Obligations, such payments or other funds received will

be applied (conditional upon final collection) to the Obligations on the date of receipt of immediately available funds by Agent in the Agent Payment Account provided such payments or other funds and notice thereof are received in accordance with Agent's usual and customary practices as in effect from time to time and within sufficient time to credit such Borrower's loan account on such day, and if not, then on the next Business Day.

(f) Each Borrower and Guarantor and their respective employees, agents and Subsidiaries shall, acting as trustee for Agent, receive, as the property of Agent, any monies, checks, notes, drafts or any other payment relating to and/or proceeds of Accounts or other Collateral which come into their possession or under their control and immediately upon receipt thereof, shall deposit or cause the same to be deposited in the Blocked Accounts, or remit the same or cause the same to be remitted, in kind, to Agent. In no event shall the same be commingled with any Borrower's or Guarantor's own funds. Borrowers agree to reimburse Agent on demand for any amounts owed or paid to any bank or other financial institution at which a Blocked Account or any other deposit account or investment account is established or any other bank, financial institution or other person involved in the transfer of funds to or from the Blocked Accounts arising out of Agent's payments to or indemnification of such bank, financial institution or other person. The obligations of Borrowers to reimburse Agent for such amounts pursuant to this Section 6.3 shall survive the termination of this Agreement.

6.4 Payments.

(a) All Obligations shall be payable to the Agent Payment Account as provided in Section 6.3 or such other place as Agent may designate from time to time. Subject to the other terms and conditions contained herein, Agent shall apply payments received or collected from any Borrower or Guarantor or for the account of any Borrower or Guarantor (including the monetary proceeds of collections or of realization upon any Collateral) as follows: first, to pay any fees, indemnities or expense reimbursements then due to Agent, Lenders and Issuing Bank from any Borrower or Guarantor; second, to pay interest due in respect of any Loans (and including any Special Agent Advances) or Letter of Credit Obligations; third, to pay or prepay principal in respect of Special Agent Advances; fourth, to pay principal due in respect of the Term Loans; fifth, to pay or prepay principal in respect of the Revolving Loans and to pay or prepay Obligations then due arising under or pursuant to any Hedge Agreements of a Borrower or Guarantor with a Bank Product Provider (up to the amount of any then effective Reserve established in respect of such Obligations), on a pro rata basis; sixth, to pay or prepay any other Obligations whether or not then due, in such order and manner as Agent determines or to be held as cash collateral in connection with any Letter of Credit Obligations (and in the case of such cash collateral as to any Letter of Credit Obligations in the amount equal to one hundred five (105%) percent of the amount thereof plus the amount of any fees and expenses payable in connection therewith through the end of the latest expiration date of the then outstanding Letters of Credit) or other contingent Obligations (but not including for this purpose any Obligations arising under or pursuant to any Bank Products); and seventh, to pay or prepay any Obligations arising under or pursuant to any Bank Products (other than to the extent provided for above) on a pro rata basis.

(b) Notwithstanding anything to the contrary contained in this Agreement, (i) unless so directed by Administrative Borrower, or unless a Default or an Event of Default shall exist or

have occurred and be continuing, Agent shall not apply any payments which it receives to any Eurodollar Rate Loans, except (A) on the expiration date of the Interest Period applicable to any such Eurodollar Rate Loans or (B) in the event that there are no outstanding Prime Rate Loans and (ii) to the extent any Borrower uses any proceeds of the Loans or Letters of Credit to acquire rights in or the use of any Collateral or to repay any Indebtedness used to acquire rights in or the use of any Collateral, payments in respect of the Obligations shall be deemed applied first to the Obligations arising from Loans and Letters of Credit that were not used for such purposes and second to the Obligations arising from Loans and Letters of Credit the proceeds of which were used to acquire rights in or the use of any Collateral in the chronological order in which such Borrower acquired such rights in or the use of such Collateral.

(c) At Agent's option, all principal, interest, fees, costs, expenses and other charges provided for in this Agreement or the other Financing Agreements may be charged directly to the loan account(s) of any Borrower maintained by Agent. If after receipt of any payment of, or proceeds of Collateral applied to the payment of, any of the Obligations, Agent, any Lender or Issuing Bank is required to surrender or return such payment or proceeds to any Person for any reason, then the Obligations intended to be satisfied by such payment or proceeds shall be reinstated and continue and this Agreement shall continue in full force and effect as if such payment or proceeds had not been received by Agent or such Lender. Borrowers and Guarantors shall be liable to pay to Agent, and do hereby indemnify and hold Agent and Lenders harmless for the amount of any payments or proceeds surrendered or returned. This Section 6.4(c) shall remain effective notwithstanding any contrary action which may be taken by Agent or any Lender in reliance upon such payment or proceeds. This Section 6.4(c) shall survive the payment of the Obligations and the termination of this Agreement.

6.5 Taxes.

(a) Any and all payments by or on account of any of the Obligations shall be made free and clear of and without deduction or withholding for or on account of, any setoff, counterclaim, defense, duties, taxes, levies, imposts, fees, deductions, charges, withholdings, liabilities, restrictions or conditions of any kind, excluding (i) in the case of each Lender, Issuing Bank and Agent (A) taxes measured by its net income, and franchise taxes imposed on it, by the jurisdiction (or any political subdivision thereof) under the laws of which such Lender, Issuing Bank or Agent (as the case may be) is organized and (B) any United States withholding taxes payable with respect to payments under the Financing Agreements under laws (including any statute, treaty or regulation) in effect on the date hereof (or, in the case of an Eligible Transferee, the date of the Assignment and Acceptance) applicable to such Lender, Issuing Bank or Agent, as the case may be, but not excluding any United States withholding taxes payable as a result of any change in such laws occurring after the date hereof (or the date of such Assignment and Acceptance) and (ii) in the case of each Lender, Issuing Bank or Agent, taxes measured by its net income, and franchise taxes imposed on it as a result of a present or former connection between such Lender and the jurisdiction of the Governmental Authority imposing such tax or any taxing authority thereof or therein (all such non-excluded taxes, levies, imposts, fees, deductions, charges, withholdings and liabilities being hereinafter referred to as "Taxes").

(b) If any Taxes shall be required by law to be deducted from or in respect of any sum payable in respect of the Obligations to any Lender, Issuing Bank or Agent (i) the sum

payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 6.5), such Lender, Issuing Bank or Agent (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) the relevant Borrower or Guarantor shall make such deductions, (iii) the relevant Borrower or Guarantor shall pay the full amount deducted to the relevant taxing authority or other authority in accordance with applicable law and (iv) the relevant Borrower or Guarantor shall deliver to Agent evidence of such payment.

(c) In addition, each Borrower and Guarantor agrees to pay any present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies of the United States or any political subdivision thereof or any applicable foreign jurisdiction, and all liabilities with respect thereto, in each case arising from any payment made hereunder or under any of the other Financing Agreements or from the execution, delivery or registration of, or otherwise with respect to, this Agreement or any of the other Financing Agreements (collectively, "Other Taxes").

(d) Each Borrower and Guarantor shall indemnify each Lender, Issuing Bank and Agent for the full amount of Taxes and Other Taxes (including any Taxes and Other Taxes imposed by any jurisdiction on amounts payable under this Section 6.5) paid by such Lender, Issuing Bank or Agent (as the case may be) and any liability (including for penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted. This indemnification shall be made within thirty (30) days from the date such Lender, Issuing Bank or Agent (as the case may be) makes written demand therefor. A certificate as to the amount of such payment or liability delivered to Administrative Borrower by a Lender, Issuing Bank (with a copy to Agent) or by Agent on its own behalf or on behalf of a Lender or Issuing Bank, shall be conclusive absent manifest error.

(e) As soon as practicable after any payment of Taxes or Other Taxes by any Borrower or Guarantor, such Borrower or Guarantor shall furnish to Agent, at its address referred to herein, the original or a certified copy of a receipt evidencing payment thereof.

(f) Without prejudice to the survival of any other agreements of any Borrower or Guarantor hereunder or under any of the other Financing Agreements, the agreements and obligations of such Borrower or Guarantor contained in this Section 6.5 shall survive the termination of this Agreement and the payment in full of the Obligations.

(g) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the applicable Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any of the other Financing Agreements shall deliver to Administrative Borrower (with a copy to Agent), at the time or times prescribed by applicable law or reasonably requested by Administrative Borrower or Agent (in such number of copies as is reasonably requested by the recipient), whichever of the following is applicable (but only if such Foreign Lender is legally entitled to do so): (i) duly completed copies of Internal Revenue Service Form W-8BEN claiming exemption from, or a reduction to, withholding tax under an income tax treaty, or any successor form, (ii) duly completed copies of Internal Revenue Service Form 8-8ECI claiming exemption from withholding because the income is effectively connection with a

U.S. trade or business or any successor form, (iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Sections 871(h) or 881(c) of the Code, (A) a certificate of the Lender to the effect that such Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of a Borrower within the meaning of Section 881(c)(3)(B) of the Code or a “controlled foreign corporation” described and Section 881(c)(3)(C) of the Code and (B) duly completed copies of Internal Revenue Service Form W-8BEN claiming exemption from withholding under the portfolio interest exemption or any successor form or (iv) any other applicable form, certificate or document prescribed by applicable law as a basis for claiming exemption from or a reduction in United States withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit a Borrower to determine the withholding or deduction required to be made. Unless Administrative Borrower and Agent have received forms or other documents satisfactory to them indicating that payments hereunder or under any of the other Financing Agreements to or for a Foreign Lender are not subject to United States withholding tax or are subject to such tax at a rate reduced by an applicable tax treaty, Borrowers or Agent shall withhold amounts required to be withheld by applicable requirements of law from such payments at the applicable statutory rate.

(h) Any Lender claiming any additional amounts payable pursuant to this Section 6.5 shall use its reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to change the jurisdiction of its applicable lending office if the making of such a change would avoid the need for, or reduce the amount of, any such additional amounts that would be payable or may thereafter accrue and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender.

6.6 Authorization to Make Loans. Agent and Lenders are authorized to make the Loans based upon telephonic or other instructions received from anyone purporting to be an officer of Administrative Borrower or any Borrower or other authorized person or, at the discretion of Agent, if such Loans are necessary to satisfy any Obligations. All requests for Loans or Letters of Credit hereunder shall specify the date on which the requested advance is to be made (which day shall be a Business Day) and the amount of the requested Loan. Requests received after 11:00 a.m. Los Angeles time on any day shall be deemed to have been made as of the opening of business on the immediately following Business Day. All Loans and Letters of Credit under this Agreement shall be conclusively presumed to have been made to, and at the request of and for the benefit of, any Borrower or Guarantor when deposited to the credit of any Borrower or Guarantor or otherwise disbursed or established in accordance with the written instructions of any Borrower or Guarantor or in accordance with the terms and conditions of this Agreement.

6.7 Use of Proceeds. Borrowers shall use the initial proceeds of the Loans and Letters of Credit hereunder only for: (a) payments to each of the persons listed in the disbursement direction letter furnished by Borrowers to Agent on or about the date hereof (including but not limited to the payment of a portion of the purchase price for the assets of the EPC Companies pursuant to the EPC Acquisition) and (b) costs, expenses and fees in connection with the preparation, negotiation, execution and delivery of this Agreement, the other Financing Agreements and the EPC Acquisition Documents. All other Loans made or Letters of Credit provided to or for the benefit of any Borrower pursuant to the provisions hereof shall be used by such Borrower only for general operating, working capital and other proper corporate purposes

of such Borrower not otherwise prohibited by the terms hereof. None of the proceeds will be used, directly or indirectly, for the purpose of purchasing or carrying any margin security or for the purposes of reducing or retiring any indebtedness which was originally incurred to purchase or carry any margin security or for any other purpose which might cause any of the Loans to be considered a "purpose credit" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System, as amended.

6.8 Appointment of Administrative Borrower as Agent for Requesting Loans and Receipts of Loans and Statements.

(a) Each Borrower hereby irrevocably appoints and constitutes Administrative Borrower as its agent and attorney-in-fact to request and receive Loans and Letters of Credit pursuant to this Agreement and the other Financing Agreements from Agent or any Lender in the name or on behalf of such Borrower. Agent and Lenders may disburse the Loans to such bank account of Administrative Borrower or a Borrower or otherwise make such Loans to a Borrower and provide such Letters of Credit to a Borrower as Administrative Borrower may designate or direct, without notice to any other Borrower or Guarantor. Notwithstanding anything to the contrary contained herein, Agent may at any time and from time to time require that Loans to or for the account of any Borrower be disbursed directly to an operating account of such Borrower.

(b) Administrative Borrower hereby accepts the appointment by Borrowers to act as the agent and attorney-in-fact of Borrowers pursuant to this Section 6.8. Administrative Borrower shall ensure that the disbursement of any Loans to each Borrower requested by or paid to or for the account of Parent, or the issuance of any Letter of Credit for a Borrower hereunder, shall be paid to or for the account of such Borrower.

(c) Each Borrower and other Guarantor hereby irrevocably appoints and constitutes Administrative Borrower as its agent to receive statements on account and all other notices from Agent and Lenders with respect to the Obligations or otherwise under or in connection with this Agreement and the other Financing Agreements.

(d) Any notice, election, representation, warranty, agreement or undertaking by or on behalf of any other Borrower or any Guarantor by Administrative Borrower shall be deemed for all purposes to have been made by such Borrower or Guarantor, as the case may be, and shall be binding upon and enforceable against such Borrower or Guarantor to the same extent as if made directly by such Borrower or Guarantor.

(e) No purported termination of the appointment of Administrative Borrower as agent as aforesaid shall be effective, except after ten (10) days' prior written notice to Agent.

6.9 Pro Rata Treatment. Except to the extent otherwise provided in this Agreement or as otherwise agreed by Lenders: (a) the making and conversion of Loans shall be made among the Lenders based on their respective Pro Rata Shares as to the Loans and (b) each payment on account of any Obligations to or for the account of one or more of Lenders in respect of any Obligations due on a particular day shall be allocated among the Lenders entitled to such payments based on their respective Pro Rata Shares and shall be distributed accordingly except as otherwise agreed.

6.10 Sharing of Payments, Etc.

(a) Each Borrower and Guarantor agrees that, in addition to (and without limitation of) any right of setoff, banker' s lien or counterclaim Agent or any Lender may otherwise have, each Lender shall be entitled, at its option (but subject, as among Agent and Lenders, to the provisions of Section 12.3(b) hereof), to offset balances held by it for the account of such Borrower or Guarantor at any of its offices, in dollars or in any other currency, against any principal of or interest on any Loans owed to such Lender or any other amount payable to such Lender hereunder, that is not paid when due (regardless of whether such balances are then due to such Borrower or Guarantor), in which case it shall promptly notify Administrative Borrower and Agent thereof; provided, that, such Lender' s failure to give such notice shall not affect the validity thereof.

(b) If any Lender (including Agent) shall obtain from any Borrower or Guarantor payment of any principal of or interest on any Loan owing to it or payment of any other amount under this Agreement or any of the other Financing Agreements through the exercise of any right of setoff, banker' s lien or counterclaim or similar right or otherwise (other than from Agent as provided herein), and, as a result of such payment, such Lender shall have received more than its Pro Rata Share of the principal of the Loans or more than its share of such other amounts then due hereunder or thereunder by any Borrower or Guarantor to such Lender than the percentage thereof received by any other Lender, it shall promptly pay to Agent, for the benefit of Lenders, the amount of such excess and simultaneously purchase from such other Lenders a participation in the Loans or such other amounts, respectively, owing to such other Lenders (or such interest due thereon, as the case may be) in such amounts, and make such other adjustments from time to time as shall be equitable, to the end that all Lenders shall share the benefit of such excess payment (net of any expenses that may be incurred by such Lender in obtaining or preserving such excess payment) in accordance with their respective Pro Rata Shares or as otherwise agreed by Lenders. To such end all Lenders shall make appropriate adjustments among themselves (by the resale of participation sold or otherwise) if such payment is rescinded or must otherwise be restored.

(c) Each Borrower and Guarantor agrees that any Lender purchasing a participation (or direct interest) as provided in this Section may exercise, in a manner consistent with this Section, all rights of setoff, banker' s lien, counterclaim or similar rights with respect to such participation as fully as if such Lender were a direct holder of Loans or other amounts (as the case may be) owing to such Lender in the amount of such participation.

(d) Nothing contained herein shall require any Lender to exercise any right of setoff, banker' s lien, counterclaims or similar rights or shall affect the right of any Lender to exercise, and retain the benefits of exercising, any such right with respect to any other Indebtedness or obligation of any Borrower or Guarantor. If, under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this Section applies, such Lender shall, to the extent practicable, assign such rights to Agent for the benefit of Lenders and, in any event, exercise its rights in respect of such secured claim in a manner consistent with the rights of Lenders entitled under this Section to share in the benefits of any recovery on such secured claim.

6.11 Settlement Procedures.

(a) In order to administer the Credit Facility in an efficient manner and to minimize the transfer of funds between Agent and Lenders, Agent may, at its option, subject to the terms of this Section, make available, on behalf of Lenders, the full amount of the Loans requested or charged to any Borrower's loan account(s) or otherwise to be advanced by Lenders pursuant to the terms hereof, without requirement of prior notice to Lenders of the proposed Loans.

(b) With respect to all Loans made by Agent on behalf of Lenders as provided in this Section, the amount of each Lender's Pro Rata Share of the outstanding Loans shall be computed weekly, and shall be adjusted upward or downward on the basis of the amount of the outstanding Loans as of 5:00 p.m. Los Angeles time on the Business Day immediately preceding the date of each settlement computation; provided, that, Agent retains the absolute right at any time or from time to time to make the above described adjustments at intervals more frequent than weekly, but in no event more than twice in any week. Agent shall deliver to each of the Lenders after the end of each week, or at such lesser period or periods as Agent shall determine, a summary statement of the amount of outstanding Loans for such period (such week or lesser period or periods being hereinafter referred to as a "Settlement Period"). If the summary statement is sent by Agent and received by a Lender prior to 12:00 p.m. Los Angeles time, then such Lender shall make the settlement transfer described in this Section by no later than 3:00 p.m. Los Angeles time on the same Business Day and if received by a Lender after 12:00 p.m. Los Angeles time, then such Lender shall make the settlement transfer by not later than 3:00 p.m. Los Angeles time on the next Business Day following the date of receipt. If, as of the end of any Settlement Period, the amount of a Lender's Pro Rata Share of the outstanding Loans is more than such Lender's Pro Rata Share of the outstanding Loans as of the end of the previous Settlement Period, then such Lender shall forthwith (but in no event later than the time set forth in the preceding sentence) transfer to Agent by wire transfer in immediately available funds the amount of the increase. Alternatively, if the amount of a Lender's Pro Rata Share of the outstanding Loans in any Settlement Period is less than the amount of such Lender's Pro Rata Share of the outstanding Loans for the previous Settlement Period, Agent shall forthwith transfer to such Lender by wire transfer in immediately available funds the amount of the decrease. The obligation of each of the Lenders to transfer such funds and effect such settlement shall be irrevocable and unconditional and without recourse to or warranty by Agent. Agent and each Lender agrees to mark its books and records at the end of each Settlement Period to show at all times the dollar amount of its Pro Rata Share of the outstanding Loans and Letters of Credit. Each Lender shall only be entitled to receive interest on its Pro Rata Share of the Loans to the extent such Loans have been funded by such Lender. Because the Agent on behalf of Lenders may be advancing and/or may be repaid Loans prior to the time when Lenders will actually advance and/or be repaid such Loans, interest with respect to Loans shall be allocated by Agent in accordance with the amount of Loans actually advanced by and repaid to each Lender and the Agent and shall accrue from and including the date such Loans are so advanced to but excluding the date such Loans are either repaid by Borrowers or actually settled with the applicable Lender as described in this Section.

(c) To the extent that Agent has made any such amounts available and the settlement described above shall not yet have occurred, upon repayment of any Loans by a Borrower, Agent may apply such amounts repaid directly to any amounts made available by

Agent pursuant to this Section. In lieu of weekly or more frequent settlements, Agent may, at its option, at any time require each Lender to provide Agent with immediately available funds representing its Pro Rata Share of each Loan, prior to Agent's disbursement of such Loan to Borrower. In such event, all Loans under this Agreement shall be made by the Lenders simultaneously and proportionately to their Pro Rata Shares. No Lender shall be responsible for any default by any other Lender in the other Lender's obligation to make a Loan requested hereunder nor shall the Commitment of any Lender be increased or decreased as a result of the default by any other Lender in the other Lender's obligation to make a Loan hereunder.

(d) If Agent is not funding a particular Loan to a Borrower (or Administrative Borrower for the benefit of such Borrower) pursuant to Sections 6.11(a) and 6.11(b) above on any day, but is requiring each Lender to provide Agent with immediately available funds on the date of such Loan as provided in Section 6.11(c) above, Agent may assume that each Lender will make available to Agent such Lender's Pro Rata Share of the Loan requested or otherwise made on such day and Agent may, in its discretion, but shall not be obligated to, cause a corresponding amount to be made available to or for the benefit of such Borrower on such day. If Agent makes such corresponding amount available to a Borrower and such corresponding amount is not in fact made available to Agent by such Lender, Agent shall be entitled to recover such corresponding amount on demand from such Lender together with interest thereon for each day from the date such payment was due until the date such amount is paid to Agent at the Federal Funds Rate for each day during such period (as published by the Federal Reserve Bank of New York or at Agent's option based on the arithmetic mean determined by Agent of the rates for the last transaction in overnight Federal funds arranged prior to 9:00 a.m. (New York City time) on that day by each of the three leading brokers of Federal funds transactions in New York City selected by Agent) and if such amounts are not paid within three (3) days of Agent's demand, at the highest Interest Rate provided for in Section 3.1 hereof applicable to Prime Rate Loans. During the period in which such Lender has not paid such corresponding amount to Agent, notwithstanding anything to the contrary contained in this Agreement or any of the other Financing Agreements, the amount so advanced by Agent to or for the benefit of any Borrower shall, for all purposes hereof, be a Loan made by Agent for its own account. Upon any such failure by a Lender to pay Agent, Agent shall promptly thereafter notify Administrative Borrower of such failure and Borrowers shall pay such corresponding amount to Agent for its own account within five (5) Business Days of Administrative Borrower's receipt of such notice. A Lender who fails to pay Agent its Pro Rata Share of any Loans made available by the Agent on such Lender's behalf, or any Lender who fails to pay any other amount owing by it to Agent, is a "Defaulting Lender". Agent shall not be obligated to transfer to a Defaulting Lender any payments received by Agent for the Defaulting Lender's benefit, nor shall a Defaulting Lender be entitled to the sharing of any payments hereunder (including any principal, interest or fees). Amounts payable to a Defaulting Lender shall instead be paid to or retained by Agent. Agent may hold and, in its discretion, relend to a Borrower the amount of all such payments received or retained by it for the account of such Defaulting Lender. For purposes of voting or consenting to matters with respect to this Agreement and the other Financing Agreements and determining Pro Rata Shares, such Defaulting Lender shall be deemed not to be a "Lender" and such Lender's Commitment shall be deemed to be zero (0). This Section shall remain effective with respect to a Defaulting Lender until such default is cured. The operation of this Section shall not be construed to increase or otherwise affect the Commitment of any Lender, or relieve or excuse the performance by any Borrower or Guarantor of their duties and obligations hereunder.

(e) Nothing in this Section or elsewhere in this Agreement or the other Financing Agreements shall be deemed to require Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its Commitment hereunder or to prejudice any rights that any Borrower may have against any Lender as a result of any default by any Lender hereunder in fulfilling its Commitment.

6.12 Obligations Several; Independent Nature of Lenders' Rights. The obligation of each Lender hereunder is several, and no Lender shall be responsible for the obligation or commitment of any other Lender hereunder. Nothing contained in this Agreement or any of the other Financing Agreements and no action taken by the Lenders pursuant hereto or thereto shall be deemed to constitute the Lenders to be a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and subject to Section 12.3 hereof, each Lender shall be entitled to protect and enforce its rights arising out of this Agreement and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

6.13 Bank Products. Borrowers and Guarantors, or any of their Subsidiaries, may (but no such Person is required to) request that the Bank Product Providers provide or arrange for such Person to obtain Bank Products from Bank Product Providers, and each Bank Product Provider may, in its sole discretion, provide or arrange for such Person to obtain the requested Bank Products. Borrowers and Guarantors or any of their Subsidiaries that obtains Bank Products shall indemnify and hold Agent, each Lender and their respective Affiliates harmless from any and all obligations now or hereafter owing to any other Person by any Bank Product Provider in connection with any Bank Products other than for gross negligence or willful misconduct on the part of any such indemnified Person. This Section 6.13 shall survive the payment of the Obligations and the termination of this Agreement. Borrower and its Subsidiaries acknowledge and agree that the obtaining of Bank Products from Bank Product Providers (a) is in the sole discretion of such Bank Product Provider, and (b) is subject to all rules and regulations of such Bank Product Provider. Each Bank Product Provider shall be deemed a party hereto for purposes of any reference in any of the Financing Agreements to the parties for whom Agent is acting, provided, that, the rights of such Bank Product Provider hereunder and under any of the other Financing Agreements shall consist exclusively of such Bank Product Provider's right to share in payments and collections out of the Collateral as set forth herein. In connection with any such distribution of payments and collections, Agent shall be entitled to assume that no amounts are due to any Bank Product Provider unless such Bank Product Provider has notified Agent in writing of any such liability owed to it as of the date of any such distribution

SECTION 7. COLLATERAL REPORTING AND COVENANTS

7.1 Collateral Reporting.

(a) Borrowers shall provide Agent with the following documents in a form satisfactory to Agent:

(i) as soon as possible after the end of each fiscal month (but in any event within ten (10) Business Days after the end thereof), on a monthly basis or on a weekly basis in

the event that at any time prior to the first anniversary of the date hereof the Excess Availability is less than \$20,000,000 or at any time thereafter the Excess Availability is less than \$15,000,000, or in any event more frequently as Agent may from time to time request at any time, (A) a Borrowing Base Certificate setting forth the calculation of the Borrowing Base as of the last Business Day of the immediately preceding period, duly completed and executed by the vice president-finance, chief financial officer, treasurer, assistant treasurer, controller or other financial or senior officer of Administrative Borrower, together with all schedules required pursuant to the terms of the Borrowing Base Certificate duly completed (including a schedule of all Accounts created, collections received and credit memos issued for the immediately preceding period); provided, that, unless and until the Inventory Availability Date (or prior thereto to the extent set forth in the definition of the Inventory Availability Date), the Borrowing Base Certificate will not include any of the Eligible Inventory or the other information with respect to the Inventory provided for in such certificate, (B) perpetual inventory reports, (C) on and after the Inventory Availability Date, inventory reports by location and category (and including the amounts of Inventory and the value thereof at any leased locations and at premises of warehouses, processors or other third parties), (D) agings of accounts receivable (together with a rollforward from the previous month' s accounts receivable balance and a reconciliation with the general ledger), and (E) agings of accounts payable;

(ii) upon Agent' s request, (A) copies of customer statements, purchase orders, sales invoices, credit memos, remittance advices and reports, and copies of deposit slips and bank statements, (B) copies of shipping and delivery documents and (C) copies of purchase orders, invoices and on and after the Inventory Availability Date, delivery documents for Inventory and Equipment acquired by any Borrower or Guarantor;

(iii) such other reports as to the Collateral as Agent shall request from time to time.

(b) If any Borrower' s or Guarantor' s records or reports of the Collateral are prepared or maintained by an accounting service, contractor, shipper or other agent, such Borrower and Guarantor hereby irrevocably authorizes such service, contractor, shipper or agent to deliver such records, reports, and related documents to Agent and to follow Agent' s instructions with respect to further services at any time that an Event of Default exists or has occurred and is continuing.

7.2 Accounts Covenants.

(a) Borrowers shall notify Agent promptly of: (i) any material delay in any Borrower' s performance of any of its material obligations to any account debtor or the assertion of any material claims, offsets, defenses or counterclaims by any account debtor, or any material disputes with account debtors, or any settlement, adjustment or compromise thereof, (ii) all material adverse information known to any Borrower or Guarantor relating to the financial condition of any account debtor that is obligated in respect of Accounts of more than \$250,000 and (iii) any event or circumstance which, to the best of any Borrower' s or Guarantor' s knowledge, would cause Agent to consider any then existing Accounts as no longer constituting Eligible Accounts. No credit, discount, allowance or extension or agreement for any of the foregoing shall be granted to any account debtor without Agent' s consent, except in the ordinary

course of a Borrower's or Guarantor's business in accordance with practices and policies previously disclosed in writing to Agent and except as set forth in the schedules delivered to Agent pursuant to Section 7.1(a) above. So long as no Event of Default exists or has occurred and is continuing, Borrowers and Guarantors shall settle, adjust or compromise any claim, offset, counterclaim or dispute with any account debtor. At any time that an Event of Default exists or has occurred and is continuing, Agent shall, at its option, have the exclusive right to settle, adjust or compromise any claim, offset, counterclaim or dispute with account debtors or grant any credits, discounts or allowances.

(b) With respect to each Account: (i) the amounts shown on any invoice delivered to Agent or schedule thereof delivered to Agent shall be true and complete, (ii) no payments shall be made thereon except payments immediately deposited to Blocked Accounts or immediately delivered to Agent pursuant to the terms of this Agreement, (iii) no credit, discount, allowance or extension or agreement for any of the foregoing shall be granted to any account debtor except as reported to Agent in accordance with this Agreement and except for credits, discounts, allowances or extensions made or given in the ordinary course of each Borrower's business in accordance with practices and policies previously disclosed to Agent, (iv) all setoffs, deductions, contra, defenses, counterclaims or disputes existing or asserted with respect thereto shall be reported to Agent in accordance with the terms of this Agreement, (v) none of the transactions giving rise thereto will violate any applicable foreign, Federal, State or local laws or regulations, all documentation relating thereto will be legally sufficient under such laws and regulations and all such documentation will be legally enforceable in accordance with its terms, except as such enforceability may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar law affecting creditors' rights generally and by general principles of equity.

(c) Agent shall have the right at any time or times, in Agent's name or in the name of a nominee of Agent, to verify the validity, amount or any other matter relating to any Receivables or other Collateral, by mail, telephone, facsimile transmission or otherwise.

7.3 Inventory Covenants. With respect to the Inventory: (a) each Borrower and Guarantor shall at all times maintain inventory records and conduct physical counts of Inventory consistent with the current practices of Borrowers and Guarantors as of the date hereof or as otherwise consented to by Agent, but in any event in a manner sufficient to permit an audit of the financial statements of Borrowers in accordance with GAAP and Borrowers shall provide to Agent such reports as may be prepared consistent with current practices with respect to such physical counts; (b) Borrowers and Guarantors shall not remove any Inventory from the locations set forth or permitted herein (including third party locations as set forth in the Information Certificate), without the prior written consent of Agent, except (i) for sales of Inventory in the ordinary course of its business, (ii) to move Inventory directly from one location set forth or permitted herein to another such location, and (iii) for Inventory shipped from the manufacturer thereof to such Borrower or Guarantor which is in transit to the locations set forth or permitted herein; (c) upon Agent's request at any time on or after a Cash Dominion Event and for so long as the same is continuing and after the Inventory Availability Date, Borrowers shall deliver or cause to be delivered to Agent written appraisals as to the Inventory in form, scope and methodology acceptable to Agent and by an appraiser acceptable to Agent, addressed to Agent and Lenders and upon which Agent and Lenders are expressly permitted to rely, provided, that,

(i) such appraisal shall be at the expense of Borrowers and (ii) so long as no Event of Default shall exist or have occurred and be continuing, there shall be no more than one (1) appraisal in any twelve (12) month period; (d) Borrowers and Guarantors shall produce, use, store and maintain the Inventory with all reasonable care and caution and in accordance with applicable standards of any insurance and in conformity with applicable laws (including the requirements of the Federal Fair Labor Standards Act of 1938, as amended and all rules, regulations and orders related thereto); (e) none of the Inventory or other Collateral constitutes farm products or the proceeds thereof; (f) each Borrower and Guarantor assumes all responsibility and liability arising from or relating to the production, use, sale or other disposition of the Inventory; (g) Borrowers and Guarantors shall not sell Inventory to any customer on approval, or any other basis which entitles the customer to return or may obligate any Borrower or Guarantor to repurchase such Inventory; (h) Borrowers and Guarantors shall keep the Inventory in good and marketable condition; and (i) Borrowers and Guarantors shall not, on and after the Inventory Availability Date, without prior written notice to Agent or the specific identification of such Inventory in a report with respect thereto provided by Administrative Borrower to Agent pursuant to Section 7.1(a) hereof, acquire or accept any Inventory on consignment or approval.

7.4 Equipment and Real Property Covenants. With respect to the Equipment and Real Property: (a) upon Agent' s request, Borrowers and Guarantors shall deliver or cause to be delivered to Agent written appraisals as to the Equipment and/or the Real Property that is subject to a Mortgage, in form, scope and methodology acceptable to Agent and by an appraiser acceptable to Agent, addressed to Agent and Lenders and upon which Agent and Lenders are expressly permitted to rely, provided, that, (i) such appraisals shall be at the expense of Borrowers on or after a Cash Dominion Event and for so long as the same is continuing and otherwise at the expense of Agent and Lenders, and (ii) so long as no Event of Default shall exist or have occurred and be continuing, there shall be no more than one (1) appraisal in any twelve (12) month period at the expense of Borrowers; (b) Borrowers and Guarantors shall keep the Equipment in good order, repair, running and marketable condition (ordinary wear and tear excepted) in accordance with current practices; (c) Borrowers and Guarantors shall use the Equipment and Real Property with all reasonable care and caution and in accordance with applicable standards of any insurance and in conformity with all applicable laws; (d) the Equipment is and shall be used in the business of Borrowers and Guarantors and not for personal, family, household or farming use; (e) Borrowers and Guarantors shall not remove any Equipment from the locations set forth or permitted herein, except (i) for sales or other dispositions of Equipment permitted hereunder, (ii) to the extent necessary to have any Equipment repaired or maintained in the ordinary course of its business, (iii) to move Equipment directly from one location set forth or permitted herein to another such location and (iv) for the movement of motor vehicles used by or for the benefit of such Borrower or Guarantor in the ordinary course of business; (f) the Equipment is now and shall remain personal property and Borrowers and Guarantors shall not permit any of the Equipment to be or become a part of or affixed to real property; and (g) each Borrower and Guarantor assumes all responsibility and liability arising from the use of the Equipment and Real Property.

7.5 Power of Attorney. Each Borrower and Guarantor hereby irrevocably designates and appoints Agent (and all persons designated by Agent) as such Borrower' s and Guarantor' s true and lawful attorney-in-fact, and authorizes Agent, in such Borrower' s, Guarantor' s or Agent' s name, to: (a) at any time an Event of Default exists or has occurred and is continuing (i) demand

payment on Receivables or other Collateral, (ii) enforce payment of Receivables by legal proceedings or otherwise, (iii) exercise all of such Borrower' s or Guarantor' s rights and remedies to collect any Receivable or other Collateral, (iv) sell or assign any Receivable upon such terms, for such amount and at such time or times as the Agent deems advisable, (v) settle, adjust, compromise, extend or renew an Account, (vi) discharge and release any Receivable, (vii) prepare, file and sign such Borrower' s or Guarantor' s name on any proof of claim in bankruptcy or other similar document against an account debtor or other obligor in respect of any Receivables or other Collateral, (viii) notify the post office authorities to change the address for delivery of remittances from account debtors or other obligors in respect of Receivables or other proceeds of Collateral to an address designated by Agent, and open all mail addressed to such Borrower or Guarantor and handle and store all mail relating to the Collateral; and (ix) do all acts and things which are necessary, in Agent' s determination, to fulfill such Borrower' s or Guarantor' s obligations under this Agreement and the other Financing Agreements, (b) at any time on or after a Cash Dominion Event and for so long as the same is continuing to (i) take control in any manner of any item of payment in respect of Receivables or constituting Collateral or otherwise received in or for deposit in the Blocked Accounts or otherwise received by Agent or any Lender and (ii) have access to any lockbox or postal box into which remittances from account debtors or other obligors in respect of Receivables or other proceeds of Collateral are sent or received, and (c) at any time to (i) endorse such Borrower' s or Guarantor' s name upon any items of payment in respect of Receivables or constituting Collateral or otherwise received by Agent and any Lender and deposit the same in Agent' s account for application to the Obligations, (ii) endorse such Borrower' s or Guarantor' s name upon any chattel paper, document, instrument, invoice, or similar document or agreement relating to any Receivable or any goods pertaining thereto or any other Collateral, including any warehouse or other receipts, or bills of lading and other negotiable or non-negotiable documents, (iii) clear Inventory the purchase of which was financed with a Letter of Credit through U.S. Customs or foreign export control authorities in such Borrower' s or Guarantor' s name, Agent' s name or the name of Agent' s designee, and to sign and deliver to customs officials powers of attorney in such Borrower' s or Guarantor' s name for such purpose, and to complete in such Borrower' s or Guarantor' s or Agent' s name, any order, sale or transaction, obtain the necessary documents in connection therewith and collect the proceeds thereof, and (iv) sign such Borrower' s or Guarantor' s name on any verification of Receivables and notices thereof to account debtors or any secondary obligors or other obligors in respect thereof. Each Borrower and Guarantor hereby releases Agent and Lenders and their respective officers, employees and designees from any liabilities arising from any act or acts under this power of attorney and in furtherance thereof, whether of omission or commission, except as a result of Agent' s or any Lender' s own gross negligence or wilful misconduct as determined pursuant to a final non-appealable order of a court of competent jurisdiction.

7.6 Right to Cure. Agent may, at its option, upon notice to Administrative Borrower given at any time a Default or an Event of Default exists or has occurred and is continuing, (a) cure any default by any Borrower or Guarantor under any material agreement with a third party that affects the Collateral, its value or the ability of Agent to collect, sell or otherwise dispose of the Collateral or the rights and remedies of Agent or any Lender therein or the ability of any Borrower or Guarantor to perform its obligations hereunder or under any of the other Financing Agreements, (b) pay or bond on appeal any judgment entered against any Borrower or Guarantor, (c) discharge taxes, liens, security interests or other encumbrances at any time levied

on or existing with respect to the Collateral and (d) pay any amount, incur any expense or perform any act which, in Agent's judgment, is necessary or appropriate to preserve, protect, insure or maintain the Collateral and the rights of Agent and Lenders with respect thereto. Agent may add any amounts so expended to the Obligations and charge any Borrower's account therefor, such amounts to be repayable by Borrowers on demand. Agent and Lenders shall be under no obligation to effect such cure, payment or bonding and shall not, by doing so, be deemed to have assumed any obligation or liability of any Borrower or Guarantor. Any payment made or other action taken by Agent or any Lender under this Section shall be without prejudice to any right to assert an Event of Default hereunder and to proceed accordingly.

7.7 Access to Premises; Field Examinations. From time to time as requested by Agent, at the cost and expense of Borrowers, (a) Agent or its designee shall have complete access to all of each Borrower's and Guarantor's premises during normal business hours and after prior notice to Administrative Borrower, or at any time and without notice to Administrative Borrower if an Event of Default exists or has occurred and is continuing, for the purposes of inspecting, verifying and auditing the Collateral and all of each Borrower's and Guarantor's books and records, including the Records, and (b) each Borrower and Guarantor shall promptly furnish to Agent such copies of such books and records or extracts therefrom as Agent may reasonably request, and Agent or any Lender or Agent's designee may use during normal business hours such of any Borrower's and Guarantor's personnel, equipment, supplies and premises as may be reasonably necessary for the foregoing (provided, that, Borrowers may make such personnel, equipment, supplies and premises available to Agent in such a manner so as to not to interfere in any material respect with the operations of Borrowers and Guarantors) and if an Event of Default exists or has occurred and is continuing for the collection of Receivables and realization of other Collateral. Agent shall conduct four (4) field examinations with respect to Borrowers prior to the first anniversary of the date hereof and not less than three (3) field examinations with respect to Borrowers in any twelve (12) month period commencing thereafter, in each case except as Agent and Required Lenders may otherwise agree.

SECTION 8. REPRESENTATIONS AND WARRANTIES

Each Borrower and Guarantor hereby represents and warrants to Agent, Lenders and Issuing Bank the following (which shall survive the execution and delivery of this Agreement):

8.1 Corporate Existence, Power and Authority. Each Borrower and Guarantor is a corporation duly organized and in existence (in the case of a corporation organized under the laws of the State of Oregon) or otherwise in good standing under the laws of its jurisdiction of organization and is duly qualified as a foreign corporation, and, to the extent applicable, in good standing in all states or other jurisdictions where the nature and extent of the business transacted by it or the ownership of assets makes such qualification necessary, except for those jurisdictions in which the failure to so qualify would not have a Material Adverse Effect. The execution, delivery and performance of this Agreement, the other Financing Agreements and the transactions contemplated hereunder and thereunder (a) are all within each Borrower's and Guarantor's corporate powers, (b) have been duly authorized, (c) are not in contravention of law or the terms of any Borrower's or Guarantor's certificate of incorporation, by laws, or other organizational documentation, or any indenture, agreement or undertaking to which any Borrower or Guarantor is a party or by which any Borrower or Guarantor or its property are

bound and (d) will not result in the creation or imposition of, or require or give rise to any obligation to grant, any lien, security interest, charge or other encumbrance upon any property of any Borrower or Guarantor. This Agreement and the other Financing Agreements to which any Borrower or Guarantor is a party constitute legal, valid and binding obligations of such Borrower and Guarantor enforceable in accordance with their respective terms, except as such enforceability may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar law affecting creditors' rights generally and by general principles of equity.

8.2 Name; State of Organization; Chief Executive Office; Collateral Locations.

(a) The exact legal name of each Borrower and Guarantor is as set forth on the signature page of this Agreement and in the Information Certificate. No Borrower or Guarantor has, during the five years prior to the date of this Agreement, been known by or used any other corporate or fictitious name or been a party to any merger or consolidation, or acquired all or substantially all of the assets of any Person, or acquired any of its property or assets out of the ordinary course of business, except as set forth in the Information Certificate.

(b) Each Borrower and Guarantor is an organization of the type and organized in the jurisdiction set forth in the Information Certificate. The Information Certificate accurately sets forth the organizational identification number of each Borrower and Guarantor or accurately states that such Borrower or Guarantor has none and accurately sets forth the federal employer identification number of each Borrower and Guarantor.

(c) The chief executive office and mailing address of each Borrower and Guarantor and each Borrower's and Guarantor's Records concerning Accounts are located only at the address identified as such in Schedule 8.2 to the Information Certificate and its only other places of business and the only other locations of Collateral, if any, are the addresses set forth in Schedule 8.2 to the Information Certificate, subject to the rights of any Borrower or Guarantor to establish new locations in accordance with Section 9.2 below. The Information Certificate correctly identifies any of such locations which are not owned by a Borrower or Guarantor and sets forth the owners and/or operators thereof.

8.3 Financial Statements; No Material Adverse Change. All financial statements relating to any Borrower or Guarantor which have been or may hereafter be delivered by any Borrower or Guarantor to Agent and Lenders have been prepared in accordance with GAAP (except as to any interim financial statements, to the extent such statements are subject to normal year-end adjustments and do not include any notes) and fairly present in all material respects the financial condition and the results of operation of such Borrower and Guarantor as at the dates and for the periods set forth therein. Except as disclosed in any interim financial statements furnished by Borrowers and Guarantors to Agent prior to the date of this Agreement, there has been no act, condition or event which has had or is reasonably likely to have a Material Adverse Effect since the date of the most recent audited financial statements of any Borrower or Guarantor furnished by any Borrower or Guarantor to Agent prior to the date of this Agreement. The projections received by Agent on September 1, 2005 for each of the fiscal months after the date hereof through the end of the 2006 fiscal year of Borrowers and the fiscal years ending 2006 through 2009 that have been delivered to Agent or any projections hereafter delivered to Agent have been

prepared in light of the past operations of the businesses of Borrowers and Guarantors and are based upon estimates and assumptions stated therein, all of which Borrowers and Guarantors have determined to be reasonable and fair in light of the then current conditions and current facts and reflect the good faith and reasonable estimates of Borrowers and Guarantors of the future financial performance of Parent and its Subsidiaries and of the other information projected therein for the periods set forth therein (it being recognized that projections and forecasts provided by Borrowers are not to be viewed as facts and that actual results during the period covered by any projections and forecasts may differ from the projected or forecasted results).

8.4 Priority of Liens; Title to Properties. The security interests and liens granted to Agent under this Agreement and the other Financing Agreements constitute valid and perfected first priority liens and security interests in and upon the Collateral subject only to the liens indicated on Schedule 8.4 to the Information Certificate and the other liens permitted under Section 9.8 hereof. Each Borrower and Guarantor has good and marketable fee simple title to or valid leasehold interests in all of its Real Property and good, valid and merchantable title to all of its other properties and assets subject to no liens, mortgages, pledges, security interests, encumbrances or charges of any kind, except those granted to Agent and such others as are specifically listed on Schedule 8.4 to the Information Certificate or permitted under Section 9.8 hereof.

8.5 Tax Returns. Each Borrower and Guarantor has filed, or caused to be filed, in a timely manner all tax returns, reports and declarations which are required to be filed by it. All information in such tax returns, reports and declarations is complete and accurate in all material respects. Each Borrower and Guarantor has paid or caused to be paid all taxes due and payable or claimed due and payable in any assessment received by it, except taxes the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to such Borrower or Guarantor and with respect to which adequate reserves have been set aside on its books. Adequate provision has been made for the payment of all accrued and unpaid Federal, State, county, local, foreign and other taxes whether or not yet due and payable and whether or not disputed.

8.6 Litigation. Except as set forth on Schedule 8.6 to the Information Certificate, (a) there is no investigation by any Governmental Authority pending, or to the best of any Borrower's or Guarantor's knowledge threatened, against or affecting any Borrower or Guarantor, its or their assets or business and (b) there is no action, suit, proceeding or claim by any Person pending, or to the best of any Borrower's or Guarantor's knowledge threatened, against any Borrower or Guarantor or its or their assets or goodwill, or against or affecting any transactions contemplated by this Agreement, in each case, which if adversely determined against such Borrower or Guarantor has or could reasonably be expected to have a Material Adverse Effect.

8.7 Compliance with Other Agreements and Applicable Laws.

(a) Borrowers and Guarantors are not in default in any respect under, or in violation in any respect of the terms of, any material agreement, contract, instrument, lease or other commitment to which it is a party or by which it or any of its assets are bound, which default or violation has or could reasonably be expected to have a Material Adverse Effect. Borrowers and

Guarantors are in compliance with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority relating to their respective businesses, including, without limitation, those set forth in or promulgated pursuant to the Occupational Safety and Health Act of 1970, as amended, the Fair Labor Standards Act of 1938, as amended, ERISA, the Code, as amended, and the rules and regulations thereunder, and all Environmental Laws, where the failure to so compliance has or could reasonably be expected to have a Material Adverse Effect.

(b) Borrowers and Guarantors have obtained all material permits, licenses, approvals, consents, certificates, orders or authorizations of any Governmental Authority required for the lawful conduct of its business (the "Permits"). All of the Permits are valid and subsisting and in full force and effect. There are no actions, claims or proceedings pending or to the best of any Borrower's or Guarantor's knowledge, threatened that seek the revocation, cancellation, suspension or modification of any of the Permits.

8.8 Environmental Compliance.

(a) Except as set forth on Schedule 8.8 to the Information Certificate, Borrowers, Guarantors and any Subsidiary of any Borrower or Guarantor have not generated, used, stored, treated, transported, manufactured, handled, produced or disposed of any Hazardous Materials, on or off its premises (whether or not owned by it) in any manner which at any time violates any applicable Environmental Law or Permit in a manner that has or could reasonably be expected to have a Material Adverse Effect, and the operations of Borrowers, Guarantors and any Subsidiary of any Borrower or Guarantor complies in all respects with all Environmental Laws and all Permits where the failure to do so has or could reasonably be expected to have a Material Adverse Effect.

(b) Except as set forth on Schedule 8.8 to the Information Certificate, there has been no investigation by any Governmental Authority or any proceeding, complaint, order, directive, claim, citation or notice by any Governmental Authority or any other person nor is any pending or to the best of any Borrower's or Guarantor's knowledge threatened, with respect to any non compliance with or violation of the requirements of any Environmental Law by any Borrower or Guarantor and any Subsidiary of any Borrower or Guarantor or the release, spill or discharge, threatened or actual, of any Hazardous Material or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Materials or any other environmental, health or safety matter, which has had or could reasonably be expected to have a Material Adverse Effect.

(c) Except as set forth on Schedule 8.8 to the Information Certificate, Borrowers, Guarantors and their Subsidiaries have no material liability (contingent or otherwise) in connection with a release, spill or discharge, threatened or actual, of any Hazardous Materials or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Materials.

(d) Borrowers, Guarantors and their Subsidiaries have all material Permits required to be obtained or filed in connection with the operations of Borrowers and Guarantors under any Environmental Law and all of such licenses, certificates, approvals or similar authorizations and other Permits are valid and in full force and effect.

8.9 Employee Benefits.

(a) Each Plan is in compliance in all respects with the applicable provisions of ERISA, the Code and other Federal or State law where the failure to so comply has or could reasonably be expected to have a Material Adverse Effect. Each Plan which is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service and to the best of any Borrower's or Guarantor's knowledge, nothing has occurred which would cause the loss of such qualification and result in a Material Adverse Effect. Each Borrower and its ERISA Affiliates have made all required contributions to any Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan where any failure to do so has or could reasonably be expected to have a Material Adverse Effect.

(b) There are no pending, or to the best of any Borrower's or Guarantor's knowledge, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan, which, if decided adversely to any Borrower or Guarantor, would 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 had, or could reasonably be expected to have, a Material Adverse Effect.

(c) Except as set forth in Schedule 8.9 hereto, (i) no ERISA Event has occurred or is reasonably expected to occur that would result in a liability of a Borrower in excess of \$500,000 or otherwise have a Material Adverse Effect; (ii) based on the latest valuation of each Pension Plan and on the actuarial methods and assumptions employed for such valuation (determined in accordance with the assumptions used for funding such Pension Plan pursuant to Section 412 of the Code), the aggregate current value of accumulated benefit liabilities of such Pension Plan under Section 4001(a)(16) of ERISA does not exceed the aggregate current value of the assets of such Pension Plan by an amount in excess of \$500,000; (iii) each Borrower and Guarantor, and their ERISA Affiliates, have not incurred and do not reasonably expect to incur, any liability under Title IV of ERISA with respect to any Plan (other than premiums due and not delinquent under Section 4007 of ERISA) in excess of \$500,000; (iv) each Borrower and Guarantor, and their ERISA Affiliates, have not incurred and do not reasonably expect to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 or 4243 of ERISA with respect to a Multiemployer Plan in excess of \$500,000; and (v) each Borrower and Guarantor, and their ERISA Affiliates, have not engaged in a transaction that would be subject to Section 4069 or 4212(c) of ERISA.

8.10 Bank Accounts. All of the deposit accounts, investment accounts or other accounts in the name of or used by any Borrower or Guarantor maintained at any bank or other financial institution are set forth on Schedule 8.10 to the Information Certificate, subject to the right of each Borrower and Guarantor to establish new accounts in accordance with Section 5.2 hereof.

8.11 Intellectual Property. Each Borrower and Guarantor owns or licenses or otherwise has the right to use all Intellectual Property necessary for the operation of its business as presently conducted or proposed to be conducted. As of the date hereof, Borrowers and

Guarantors do not have any Intellectual Property registered, or subject to pending applications, in the United States Patent and Trademark Office or any similar office or agency in the United States, any State thereof, any political subdivision thereof or in any other country, other than those described in Schedule 8.11 to the Information Certificate and has not granted any licenses with respect thereto other than as set forth in Schedule 8.11 to the Information Certificate. No event has occurred which permits or would permit after notice or passage of time or both, the revocation, suspension or termination of such rights. To the best of any Borrower's and Guarantor's knowledge, no slogan or other advertising device, product, process, method, substance or other Intellectual Property or goods bearing or using any Intellectual Property presently contemplated to be sold by or employed by any Borrower or Guarantor infringes any patent, trademark, servicemark, tradename, copyright, license or other Intellectual Property owned by any other Person presently and no claim or litigation is pending or threatened against or affecting any Borrower or Guarantor contesting its right to sell or use any such Intellectual Property. Schedule 8.11 to the Information Certificate sets forth all of the agreements or other arrangements of each Borrower and Guarantor pursuant to which such Borrower or Guarantor has a license or other right to use any trademarks, logos, designs, representations or other Intellectual Property owned by another person as in effect on the date hereof and the dates of the expiration of such agreements or other arrangements of such Borrower or Guarantor as in effect on the date hereof (collectively, together with such agreements or other arrangements as may be entered into by any Borrower or Guarantor after the date hereof, collectively, the "License Agreements" and individually, a "License Agreement"). No trademark, servicemark, copyright or other Intellectual Property at any time used by any Borrower or Guarantor which is owned by another person, or owned by such Borrower or Guarantor subject to any security interest, lien, collateral assignment, pledge or other encumbrance in favor of any person other than Agent, is affixed to any Eligible Inventory, except (a) to the extent permitted under the term of the license agreements listed on Schedule 8.11 to the Information Certificate and (b) to the extent the sale of Inventory to which such Intellectual Property is affixed is permitted to be sold by such Borrower or Guarantor under applicable law (including the United States Copyright Act of 1976).

8.12 Subsidiaries; Affiliates; Capitalization; Solvency.

(a) Each Borrower and Guarantor does not have any direct or indirect Subsidiaries or Affiliates and is not engaged in any joint venture or partnership except as set forth in Schedule 8.12 to the Information Certificate.

(b) Except as set forth in Schedule 8.12 to the Information Certificate, each Borrower and Guarantor is the record and beneficial owner of all of the issued and outstanding shares of Capital Stock of each of the Subsidiaries listed on Schedule 8.12 to the Information Certificate as being owned by such Borrower or Guarantor and there are no proxies, irrevocable or otherwise, with respect to such shares and no equity securities of any of the Subsidiaries are or may become required to be issued by reason of any options, warrants, rights to subscribe to, calls or commitments of any kind or nature and there are no contracts, commitments, understandings or arrangements by which any Subsidiary is or may become bound to issue additional shares of its Capital Stock or securities convertible into or exchangeable for such shares.

(c) The issued and outstanding shares of Capital Stock of each Borrower (other than Parent) and Guarantor are directly and beneficially owned and held by the persons indicated in

the Information Certificate, and in each case all of such shares have been duly authorized and are fully paid and non-assessable, free and clear of all claims, liens, pledges and encumbrances of any kind, except as disclosed in writing to Agent prior to the date hereof.

(d) Each Borrower and Guarantor is Solvent and will continue to be Solvent after the creation of the Obligations, the security interests of Agent and the other transaction contemplated hereunder.

(e) Merix B.V. does not own any assets or have any liabilities and is not engaged in any business or commercial activities, does not own any assets with a book value of more than \$25,000 in the aggregate and is not obligated or liable, directly or indirectly, contingently or otherwise, in respect of any Indebtedness or other obligations.

8.13 Labor Disputes.

(a) Set forth on Schedule 8.13 to the Information Certificate is a list (including dates of termination) of all collective bargaining or similar agreements between or applicable to each Borrower and Guarantor and any union, labor organization or other bargaining agent in respect of the employees of any Borrower or Guarantor on the date hereof.

(b) There is (i) no significant unfair labor practice complaint pending against any Borrower or Guarantor or, to the best of any Borrower's or Guarantor's knowledge, threatened against it, before the National Labor Relations Board, and no significant grievance or significant arbitration proceeding arising out of or under any collective bargaining agreement is pending on the date hereof against any Borrower or Guarantor or, to best of any Borrower's or Guarantor's knowledge, threatened against it, and (ii) no significant strike, labor dispute, slowdown or stoppage is pending against any Borrower or Guarantor or, to the best of any Borrower's or Guarantor's knowledge, threatened against any Borrower or Guarantor.

8.14 Restrictions on Subsidiaries. Except for restrictions contained in this Agreement or any other agreement with respect to Indebtedness of any Borrower or Guarantor permitted hereunder as in effect on the date hereof, there are no contractual or consensual restrictions on any Borrower or Guarantor or any of its Domestic Subsidiaries which prohibit or otherwise restrict (a) the transfer of cash or other assets (i) between any Borrower or Guarantor and any of its or their Domestic Subsidiaries or (ii) between any Domestic Subsidiaries of any Borrower or Guarantor or (b) the ability of any Borrower or Guarantor or any of its or their Domestic Subsidiaries to incur Indebtedness or grant security interests to Agent or any Lender in the Collateral.

8.15 Material Contracts. Schedule 8.15 to the Information Certificate sets forth all Material Contracts to which any Borrower or Guarantor is a party or is bound as of the date hereof. Borrowers and Guarantors have delivered true, correct and complete copies of such Material Contracts to Agent on or before the date hereof. Borrowers and Guarantors are not in breach or in default in any material respect of or under any Material Contract and have not received any notice of the intention of any other party thereto to terminate any Material Contract.

8.16 Payable Practices. Each Borrower and Guarantor has not made any material change in the historical accounts payable practices from those in effect immediately prior to the date hereof.

8.17 Accuracy and Completeness of Information. All information furnished by or on behalf of any Borrower or Guarantor in writing to Agent or any Lender in connection with this Agreement or any of the other Financing Agreements or any transaction contemplated hereby or thereby, including all information on the Information Certificate is true and correct in all material respects on the date as of which such information is dated or certified and does not omit any material fact necessary in order to make such information not misleading. No event or circumstance has occurred which has had or could reasonably be expected to have a Material Adverse Affect, which has not been fully and accurately disclosed to Agent in writing prior to the date hereof.

8.18 Survival of Warranties; Cumulative. All representations and warranties contained in this Agreement or any of the other Financing Agreements shall survive the execution and delivery of this Agreement and shall be deemed to have been made again to Agent and Lenders on the date of each additional borrowing or other credit accommodation hereunder and shall be conclusively presumed to have been relied on by Agent and Lenders regardless of any investigation made or information possessed by Agent or any Lender. The representations and warranties set forth herein shall be cumulative and in addition to any other representations or warranties which any Borrower or Guarantor shall now or hereafter give, or cause to be given, to Agent or any Lender.

SECTION 9. AFFIRMATIVE AND NEGATIVE COVENANTS

9.1 Maintenance of Existence

(a) Each Borrower and Guarantor shall at all times preserve, renew and keep in full force and effect its corporate existence and rights and franchises with respect thereto. Each Borrower and Guarantor shall maintain in full force and effect all material licenses, trademarks, tradenames, approvals, authorizations, leases, contracts and Permits necessary to carry on the business as presently or proposed to be conducted, except as otherwise permitted in Section 9.7 hereto.

(b) No Borrower or Guarantor shall change its name unless each of the following conditions is satisfied: (i) Agent shall have received not less than ten (10) days prior written notice from Administrative Borrower of such proposed change in its corporate name, which notice shall accurately set forth the new name; and (ii) Agent shall have received a copy of the amendment to the Certificate of Incorporation of such Borrower or Guarantor providing for the name change certified by the Secretary of State of the jurisdiction of incorporation or organization of such Borrower or Guarantor as soon as it is available.

(c) No Borrower or Guarantor shall change its chief executive office or its mailing address or organizational identification number (or if it does not have one, shall not acquire one) unless Agent shall have received not less than ten (10) Business Days' prior written notice from Administrative Borrower of such proposed change, which notice shall set forth such information

with respect thereto as Agent may require and Agent shall have received such agreements as Agent may reasonably require in connection therewith. No Borrower or Guarantor shall change its type of organization, jurisdiction of organization or other legal structure.

9.2 New Collateral Locations. Each Borrower and Guarantor may only open any new location within the continental United States provided such Borrower or Guarantor gives Agent ten (10) days prior written notice of the intended opening of any such new location, except, that, Borrowers and Guarantors shall not be required to give such prior written notice of a new location of Inventory that is owned and operated by a third party (including any processor or customer pursuant to any consignment arrangement) so long as: (a) the aggregate amount of all of the Inventory at locations for which Agent has not received such notice does not exceed \$1,000,000 prior to an Inventory Availability Date and \$250,000 after an Inventory Availability Date; (b) no Default or Event of Default exists or has occurred and is continuing; and (c) Borrowers and Guarantors shall include the name of the owner and operator and address of such location with the compliance certificate to be delivered under Section 9.6(a)(i) hereof. Each Borrower and Guarantor shall execute and deliver, or cause to be executed and delivered, to Agent such agreements, documents, and instruments as Agent may deem reasonably necessary or desirable to protect its interests in the Collateral at such location.

9.3 Compliance with Laws, Regulations, Etc.

(a) Each Borrower and Guarantor shall, and shall cause any Domestic Subsidiary to, at all times, comply with all laws, rules, regulations, licenses, approvals, orders and other Permits applicable to it and duly observe all requirements of any foreign, Federal, State or local Governmental Authority where the failure to do so has or could reasonably be expected to have a Material Adverse Effect.

(b) Borrowers and Guarantors shall give written notice to Agent immediately upon any Borrower' s or Guarantor' s receipt of any notice of, or any Borrower' s or Guarantor' s otherwise obtaining knowledge of, (i) the occurrence of any event involving the release, spill or discharge, threatened or actual, of any Hazardous Material or (ii) any investigation, proceeding, complaint, order, directive, claims, citation or notice with respect to: (A) any non-compliance with or violation of any Environmental Law by any Borrower or Guarantor or (B) the release, spill or discharge, threatened or actual, of any Hazardous Material other than in the ordinary course of business and other than as permitted under any applicable Environmental Law. Copies of all environmental surveys, audits, assessments, feasibility studies and results of remedial investigations shall be promptly furnished, or caused to be furnished, by such Borrower or Guarantor to Agent. Each Borrower and Guarantor shall take prompt action to respond to any material non-compliance with any of the Environmental Laws and shall regularly report to Agent on such response.

(c) Without limiting the generality of the foregoing, whenever Agent reasonably determines that there is non-compliance, or any condition which requires any action by or on behalf of any Borrower or Guarantor in order to avoid any non compliance, with any Environmental Law, Borrowers shall, at Agent' s request and Borrowers' expense: (i) cause an independent environmental engineer reasonably acceptable to Agent to conduct such tests of the site where non-compliance or alleged non compliance with such Environmental Laws has

occurred as to such non-compliance and prepare and deliver to Agent a report as to such non-compliance setting forth the results of such tests, a proposed plan for responding to any environmental problems described therein, and an estimate of the costs thereof and (ii) provide to Agent a supplemental report of such engineer whenever the scope of such non-compliance, or such Borrower' s or Guarantor' s response thereto or the estimated costs thereof, shall change in any material respect.

(d) Each Borrower and Guarantor shall indemnify and hold harmless Agent and Lenders and their respective directors, officers, employees, agents, invitees, representatives, successors and assigns, from and against any and all losses, claims, damages, liabilities, costs, and expenses (including reasonable attorneys' fees and expenses) directly or indirectly arising out of or attributable to the use, generation, manufacture, reproduction, storage, release, threatened release, spill, discharge, disposal or presence of a Hazardous Material, including the costs of any required or necessary repair, cleanup or other remedial work with respect to any property of any Borrower or Guarantor and the preparation and implementation of any closure, remedial or other required plans. All representations, warranties, covenants and indemnifications in this Section 9.3 shall survive the payment of the Obligations and the termination of this Agreement.

9.4 Payment of Taxes and Claims. Each Borrower and Guarantor shall, and shall cause any Domestic Subsidiary to, duly pay and discharge all taxes, assessments, contributions and governmental charges upon or against it or its properties or assets, except for taxes the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to such Borrower, Guarantor or Domestic Subsidiary, as the case may be, and with respect to which adequate reserves have been set aside on its books to the extent required by GAAP.

9.5 Insurance.

(a) Each Borrower and Guarantor shall, and shall cause any Domestic Subsidiary to, at all times, maintain with financially sound and reputable insurers insurance with respect to the Collateral against loss or damage and all other insurance of the kinds and in the amounts customarily insured against or carried by corporations of established reputation engaged in the same or similar businesses and similarly situated. Said policies of insurance shall be reasonably satisfactory to Agent as to form, amount and insurer. Borrowers and Guarantors shall furnish certificates, policies or endorsements to Agent as Agent shall reasonably require as proof of such insurance, and, if any Borrower or Guarantor fails to do so, Agent is authorized, but not required, to obtain such insurance at the expense of Borrowers. All such policies shall provide for at least thirty (30) days prior written notice to Agent of any cancellation or reduction of coverage and that Agent may act as attorney for each Borrower and Guarantor in obtaining, and at any time an Event of Default exists or has occurred and is continuing, adjusting, settling, amending and canceling such insurance. Borrowers and Guarantors shall cause Agent to be named as a loss payee and an additional insured (but without any liability for any premiums) under such insurance policies and Borrowers and Guarantors shall obtain non-contributory lender' s loss payable endorsements to all insurance policies in form and substance satisfactory to Agent. Such lender' s loss payable endorsements shall specify that the proceeds of such insurance shall be payable to Agent as its interests may appear and further specify that Agent and Lenders shall be

paid regardless of any act or omission by any Borrower, Guarantor or any of its or their Affiliates. Without limiting any other rights of Agent or Lenders, subject to Section 9.5(b) below, any insurance proceeds received by Agent at any time may be applied to payment of the Obligations, whether or not then due, in any order and in such manner as Agent may determine.

(b) Notwithstanding anything to the contrary contained herein, if any of the Equipment or any portion of any building, structure or other improvement on any Real Property is lost, physically damaged or destroyed, upon the written request of Administrative Borrower,

(i) if the amount of the Net Cash Proceeds from insurance received by Agent pursuant to this Section 9.5 based on a claim by a Borrower as a result of such loss, damage or destruction is equal to or less than \$500,000, Agent shall release such Net Cash Proceeds then in the possession and control of Agent at the time of such request, provided, that, no Default or Event of Default shall exist or have occurred and be continuing,

(ii) if the amount of the Net Cash Proceeds from insurance received by Agent pursuant to this Section 9.5 based on a claim by a Borrower as a result of such loss, damage or destruction is greater than \$500,000 and less than \$4,000,000, Agent shall from time to time release such Net Cash Proceeds then in the possession and control of Agent at the time of such request, provided, that, each of the following conditions is satisfied: (A) no Default or Event of Default shall exist or have occurred and be continuing, (B) the sum of the amount of the insurance proceeds (together with any deductible to be satisfied by any Borrower or Guarantor) plus the Qualified Cash of Borrowers at the time of the receipt of the initial insurance proceeds are sufficient, in Agent's good faith determination, to effect such repair, refurbishing or replacement in a satisfactory manner (provided, that, Qualified Cash will only be included for this purpose if the Excess Availability, without regard to Qualified Cash, is equal to or greater than \$10,000,000 and to the extent that the amounts of Qualified Cash to be used for such purpose shall be set aside in a manner satisfactory to Agent to be available solely for the costs and expenses of such repair, refurbishing or replacement), (C) such proceeds shall be used first to repair, refurbish or replace the Collateral so lost, damaged or destroyed (free and clear of any security interests, liens, claims or encumbrances), (D) the insurance carrier shall have waived any right of subrogation against Borrowers and Guarantors under its policy, (E) such repair, refurbishing or replacement shall be commenced as soon as reasonably practicable and shall be diligently pursued to satisfactory completion, (F) the insurance proceeds shall be released by Agent to Administrative Borrower from time to time as needed and/or at Agent's option, released by Agent directly to the contractor, subcontractor, materialmen, laborers, engineers, architects and other persons rendering services or materials to repair, refurbish or replace such Equipment, building, structure or improvements, and (G) the repair, refurbishing or replacement to which the proceeds are applied shall cause the Equipment, building, structure or improvement so lost, damaged, destroyed to be of at least equal value and substantially the same character as prior to such loss, damage or destruction.

(c) Notwithstanding anything to the contrary in Section 9.5(b), at any time an Event of Default exists or has occurred and is continuing or as to any insurance proceeds in excess of those used to repair, refurbish or replace any Collateral, at its option, Agent may apply such insurance proceeds to payment of the

Obligations, whether or not then due, in any order and in such manner as Agent may determine or hold such proceeds as cash collateral for the Obligations. After the repair, refurbishing or replacement of any Equipment, building, structure or improvement as provided in Section 9.5(b), without limiting any other rights of Agent or Lenders, at Agent's option, Borrowers shall, at their expense, deliver or cause to be delivered to Agent written appraisals as to such Equipment, building, structure or improvement in form, scope and methodology acceptable to Agent and by an appraiser acceptable to Agent, addressed to Agent and Lenders and upon which Agent and Lenders are expressly permitted to rely (which appraisal shall not be considered for purposes of any limitations on appraisals provided for herein, but is in addition thereto).

9.6 Financial Statements and Other Information.

(a) Each Borrower and Guarantor shall, and shall cause each Domestic Subsidiary to, keep proper books and records in which true and complete entries shall be made of all dealings or transactions of or in relation to the Collateral and the business of such Borrower, Guarantor and its Subsidiaries in accordance with GAAP. Borrowers and Guarantors shall promptly furnish to Agent and Lenders all such financial and other information as Agent shall reasonably request relating to the Collateral and the assets, business and operations of Borrowers and Guarantors, and Borrower shall notify the auditors and accountants of Borrowers and Guarantors that Agent is authorized to obtain such information directly from them. Without limiting the foregoing, Borrowers shall furnish or cause to be furnished to Agent, the following:

(i) within thirty (30) days after the end of each fiscal month, monthly unaudited balance sheets, statements of income and loss and statements of cash flow of Parent's consolidated U.S. operations (on a consolidating basis) in accordance with GAAP, subject to normal quarter-end adjustments and accompanied by a compliance certificate substantially in the form of Exhibit D hereto, along with a schedule in form reasonably satisfactory to Agent of the calculations used in determining (A) whether Borrowers and Guarantors were in compliance with the covenants set forth in Section 9.17 of this Agreement for such fiscal month and (B) the Debt Ratio (as defined in the Merix 6.5% Debenture), in each case, as of the end of such fiscal month,

(ii) within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year, a copy of Parent's Form 10-Q for such quarter, together with Parent's quarterly balance sheets, statements of income and loss and statements of cash flow for Parent's consolidated U.S. operations, with comparisons to corresponding amounts for the U.S. operations in the financial plan approved by the Board of Directors of Parent for such period, and

(iii) within ninety (90) days after the end of each fiscal year, a copy of Parent's Form 10-K which shall include consolidated financial statements audited by, and the unqualified opinion of, a nationally recognized firm of certified public accountants, together with a copy of the annual consolidating trial balances which include annual unaudited balance sheets, statements of income and loss and statements of cash flow for Parent's consolidated U.S. operations, and

(iv) at such time as available, but in no event later than sixty (60) days after the end of each two (2) consecutive fiscal quarter period (commencing with the third and fourth fiscal quarters of 2006 of Borrowers), the semi-annual financial plans approved by the Board of Directors of Parent prepared and presented by fiscal quarter in a manner consistent with the current practices of Parent as of the date hereof.

(b) Borrowers and Guarantors shall promptly notify Agent in writing of the details of (i) any loss, damage, investigation, action, suit, proceeding or claim relating to Collateral having a value of more than \$250,000 or which if adversely determined would result in any material adverse change in any Borrower's or Guarantor's business, properties, assets, goodwill or condition, financial or otherwise, (ii) any Material Contract being terminated or amended or any new Material Contract entered into (in which event Borrowers and Guarantors shall provide Agent with a copy of such Material Contract), (iii) any order, judgment or decree in excess of \$250,000 shall have been entered against any Borrower or Guarantor any of its or their properties or assets, (iv) any notification of a material violation of laws or regulations received by any Borrower or Guarantor, (v) any ERISA Event, and (vi) the occurrence of any Default or Event of Default.

(c) Promptly after the sending or filing thereof, Borrowers shall notify Agent that any of the following have been sent or filed, and to the extent are not then publicly available by electronic means to Agent shall send to Agent copies of (i) all reports which Parent or any of its Subsidiaries sends to its security holders generally, (ii) all reports and registration statements which Parent or any of its Subsidiaries files with the Securities Exchange Commission, any national or foreign securities exchange or the National Association of Securities Dealers, Inc., and such other reports as Agent may hereafter specifically identify to Administrative Borrower that Agent will require be provided to Agent, (iii) all press releases and (iv) all other statements concerning material changes or developments in the business of a Borrower or Guarantor made available by any Borrower or Guarantor to the public.

(d) Borrowers and Guarantors shall furnish or cause to be furnished to Agent such budgets, forecasts, projections and other information respecting the Collateral and the business of Borrowers and Guarantors, as Agent may, from time to time, reasonably request. Agent is hereby authorized to deliver a copy of any financial statement or any other information relating to the business of Borrowers and Guarantors to any court or other Governmental Authority or to any Lender or Participant or prospective Lender or Participant or any Affiliate of any Lender or Participant. Each Borrower and Guarantor hereby irrevocably authorizes and directs all accountants or auditors to deliver to Agent, at Borrowers' expense, copies of the financial statements of any Borrower and Guarantor and any reports or management letters prepared by such accountants or auditors on behalf of any Borrower or Guarantor and to disclose to Agent and Lenders such information as they may have regarding the business of any Borrower and Guarantor. Any documents, schedules, invoices or other papers delivered to Agent or any Lender may be destroyed or otherwise disposed of by Agent or such Lender one (1) year after the same are delivered to Agent or such Lender, except as otherwise designated by Administrative Borrower to Agent or such Lender in writing.

9.7 Sale of Assets, Consolidation, Merger, Dissolution, Etc. Each Borrower and Guarantor shall not, and shall not permit any Subsidiary to, directly or indirectly,

(a) merge into or with or consolidate with any other Person or permit any other Person to merge into or with or consolidate with it, except:

(i) any Domestic Subsidiary (other than a Borrower) may merge with and into or consolidate with any other Domestic Subsidiary of Parent (other than a Borrower), provided, that, each of the following conditions is satisfied as determined by Agent: (A) Agent shall have received not less than ten (10) Business Days' prior written notice of the intention of such Domestic Subsidiaries to so merge or consolidate, which notice shall set forth in reasonable detail satisfactory to Agent, the persons that are merging or consolidating, which person will be the surviving entity, the locations of the assets of the persons that are merging or consolidating, and the material agreements and documents relating to such merger or consolidation, (B) Agent shall have received such other information with respect to such merger or consolidation as Agent may reasonably request, (C) as of the effective date of the merger or consolidation and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing, (D) Agent shall have received, true, correct and complete copies of all agreements, documents and instruments relating to such merger or consolidation, including, but not limited to, the certificate or certificates of merger to be filed with each appropriate Secretary of State (with a copy as filed promptly after such filing), and (E) the surviving corporation shall expressly confirm, ratify and assume the Obligations and the Financing Agreements to which it is a party in writing, in form and substance satisfactory to Agent, and Borrowers and Guarantors shall execute and deliver such other agreements, documents and instruments as Agent may request in connection therewith,

(ii) any Foreign Subsidiary may merge or consolidate with and into any other Foreign Subsidiary or any other Person, provided, that, (A) Agent shall have received prompt written notice of the intention of such Foreign Subsidiary to so merge or consolidate, which notice shall set forth in reasonable detail, the Foreign Subsidiary that is merging or consolidating, the person with whom such Foreign Subsidiary is merging or consolidating and the material agreements and documents relating to such merger or consolidation, (B) a Foreign Subsidiary shall be the surviving entity of such merger or consolidation and the conditions set forth in Section 9.10(i) shall be satisfied, and (C) in no event shall any Borrower or Guarantor make, or be required to make, any payment or incur any obligation or liability in connection with such merger or consolidation or take any other action which is otherwise prohibited hereunder; or

(b) sell, issue, assign, lease, license, transfer, abandon or otherwise dispose of any Capital Stock or Indebtedness to any other Person or any of its assets to any other Person, except for

(i) sales of Inventory in the ordinary course of business,

(ii) the sale or other disposition of Equipment (including worn-out or obsolete Equipment or Equipment no longer used or useful in the business of any Borrower or Guarantor) so long as such sales or other dispositions do not involve Equipment having an aggregate fair market value in excess of \$100,000 for all such Equipment disposed of in any fiscal year of Borrowers or such greater amount as Agent may otherwise agree,

(iii) the sale or other disposition of Equipment to any Foreign Subsidiary, provided, that, each of the following conditions is satisfied: (A) each such sale or other disposition shall be in a bona fide arms' length transaction, (B) such sales or other dispositions do not involve Equipment having an aggregate fair market value in excess of \$1,000,000 for all

such Equipment sold or disposed of in any fiscal year of Borrowers or such greater amount as Agent may otherwise agree, (C) to the extent that such Equipment so sold or otherwise disposed of has been included in any appraisal of Equipment received by Agent, Agent shall have received Net Cash Proceeds from the Foreign Subsidiary in respect of such sale or other disposition not less than the amount equal to: (1) the net orderly liquidation value of such Equipment set forth in the final written appraisal of the Equipment received by Agent prior to the date hereof minus (2) the amount equal to: (aa) the fraction, the numerator of which is the net orderly liquidation value of such Equipment as set forth in the final written appraisal of the Equipment received by Agent prior to the date hereof and the denominator of which is \$26,381,000 multiplied by (bb) the aggregate amount of the payments received by Agent in respect of the Term Loans as of the date of such sale or other disposition; and such Net Cash Proceeds shall be applied to the prepayment of the installments of principal of the Term Loans in the inverse order of maturity, and any such Net Cash Proceeds in excess of such amount shall be applied to the Revolving Loans, and (D) as of the date of such sale or other disposition and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing,

(iv) the sale by Parent of its right, title and interest in and to its fee simple interest in the Real Property of Parent located at 3700 24th Avenue, Forest Grove, Oregon; provided, that, (A) if such sale occurs at any time on and after a Cash Dominion Event, (1) Agent shall have received all of the Net Cash Proceeds in respect of the sale of such Real Property to be received by Parent, for application to the Revolving Loans, (2) such sale shall be in a bona fide arms' length transaction with a person that is not an Affiliate on commercially reasonable prices and terms, (3) Agent shall have received a complete copy of the purchase agreement with respect to such Real Property, an executed copy of the Deed by Parent transferring such Real Property and a copy of the Closing Statement executed by Parent and the purchaser of such Real Property, and (4) as of the date of any such sale and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing, and (B) notwithstanding anything to the contrary contained herein, in the event that such Real Property of Parent has not been sold prior to May 31, 2006, at the option of Agent, Parent shall execute and deliver to Agent a modification and spreader of the Line of Credit Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, by Parent in favor of Agent with respect to such Real Property and related assets of Parent located on such Real Property, in form and substance satisfactory to Agent and a UCC-1 financing statement to be filed in the real estate records of Washington County, Oregon, together with environmental assessments of such property conducted by an independent environmental engineering firm acceptable to Agent, and in form, scope and methodology satisfactory to Agent, the results of which shall be satisfactory to Agent and a valid and effective title insurance policy, in form and substance satisfactory to Agent issued by a company and agent acceptable to Agent;

(v) the sale by Parent of its right, title and interest in and to its fee simple interest in forty-five and seven-tenths (45.7) acres of the unimproved portion of the Real Property subject to the Mortgage, on terms and conditions satisfactory to Agent and Parent; provided, that, (A) Agent shall have received evidence that such portion of the Real Property to be sold has been legally subdivided, including a subdivision endorsement issued by the company issuing the title insurance policy pursuant to Section 4.1(1) hereof, (B) Agent shall have received all of the Net Cash Proceeds in respect of the sale of such portion of the Real Property subject to the Mortgage to be received by Parent, which Net Cash Proceeds shall in no event be less than

the amount equal to: (1) \$4,800,000 minus (2) the amount equal to: (aa) the fraction, the numerator of which \$4,800,000 and the denominator of which is \$26,381,000 multiplied by (bb) the aggregate amount of the payments received by Agent in respect of the Term Loans as of the date of such sale or other disposition; and such Net Cash Proceeds shall be applied to the prepayment of the installments of principal of the Term Loans in the inverse order of maturity, and any such Net Cash Proceeds in excess of such amount shall be applied to the Revolving Loans, (C) Agent shall have received (1) a complete copy of the purchase agreement with respect to such portion of the Real Property subject to the Mortgage, (2) an executed copy of the Deed by Parent transferring such portion of the Real Property subject to the Mortgage and (3) a copy of the Closing Statement executed by Parent and the purchaser of such portion of the Real Property subject to the Mortgage, and (D) on the date of such sale and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing;

(vi) the issuance and sale by any Borrower or Guarantor of Capital Stock of such Borrower or Guarantor after the date hereof; provided, that, (A) Agent shall have received not less than ten (10) Business Days' prior written notice of such issuance and sale by such Borrower or Guarantor, which notice shall specify the parties to whom such shares are to be sold, the terms of such sale, the total amount which it is anticipated will be realized from the issuance and sale of such stock and the net cash proceeds which it is anticipated will be received by such Borrower or Guarantor from such sale, (B) such Borrower or Guarantor shall not be required to pay any cash dividends or repurchase or redeem such Capital Stock or make any other payments in respect thereof, except as otherwise permitted in Section 9.11 hereof, (C) the terms of such Capital Stock, and the terms and conditions of the purchase and sale thereof, shall not include any terms that include any limitation on the right of any Borrower to request or receive Loans or Letters of Credit or the right of any Borrower and Guarantor to amend or modify any of the terms and conditions of this Agreement or any of the other Financing Agreements or otherwise in any way relate to or affect the arrangements of Borrowers and Guarantors with Agent and Lenders or are more restrictive or burdensome to any Borrower or Guarantor than the terms of any Capital Stock in effect on the date hereof, (D) except as Agent may otherwise agree in writing, if as of the date of such issuance and sale or after giving effect thereto, a Cash Dominion Event has occurred and is continuing, all of the proceeds of the sale and issuance of such Capital Stock shall be paid to Agent for application to the Obligations in such order and manner as Agent may determine;

(vii) the issuance of Capital Stock of any Borrower or Guarantor consisting of common stock pursuant to an employee stock option or grant or similar equity plan or 401(k) plans of such Borrower or Guarantor for the benefit of its employees, directors and consultants, provided, that, in no event shall such Borrower or Guarantor be required to issue, or shall such Borrower or Guarantor issue, Capital Stock pursuant to such stock plans or 401(k) plans which would result in a Change of Control or other Event of Default,

(viii) the grant by any Borrower or Guarantor of a non-exclusive license or an exclusive license after the date hereof to any Foreign Subsidiary for the use of any Intellectual Property consisting of trademarks or patents owned by any Borrower or Guarantor; provided, that, as to any such license, each of the following conditions is satisfied: (A) within ten (10) Business Days after the end of each month, or at any time an Event of Default exists or has occurred and is continuing more frequently as Agent may request, Borrowers and Guarantors

shall provide to Agent a list of the licenses, if any, entered into during the immediately preceding month (or such shorter period), together with such other information with respect thereto as Agent may reasonably request, (B) each such license shall be in a bona fide arms' -length transaction, (C) such license shall not include any limitations or restrictions on the use of such trademarks or patents that would adversely affect the ability of Agent to use such trademarks or patents in order to sell or otherwise realize upon any of the Inventory, or if such license does include any such limitations or restrictions, any Inventory bearing the trademark or using the patent that is subject to such license or for which such trademark or patent is used in the manufacture, distribution or sale thereof shall cease to be Eligible Inventory to the extent that such Inventory can no longer be sold using such trademark or patent or is not reasonably anticipated to be sold during the remaining period that any Borrower or Guarantor may use such trademark prior to the termination of its rights to do so in accordance with the terms of the applicable agreement, (D) upon Agent' s request, Borrowers and Guarantors shall deliver to Agent true, correct and complete copies of such agreements, documents and instruments in connection with such license as Agent may specify, and (E) at the time of the grant of the license and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing,

(c) wind up, liquidate or dissolve except that (i) any Guarantor wind up, liquidate and dissolve, provided, that, each of the following conditions is satisfied, (A) the winding up, liquidation and dissolution of such Guarantor shall not violate any law or any order or decree of any court or other Governmental Authority in any material respect and shall not conflict with or result in the breach of, or constitute a default under, any indenture, mortgage, deed of trust, or any other agreement or instrument to which any Borrower or Guarantor is a party or may be bound, (B) such winding up, liquidation or dissolution shall be done in accordance with the requirements of all applicable laws and regulations, (C) effective upon such winding up, liquidation or dissolution, all of the assets and properties of such Guarantor shall be duly and validly transferred and assigned to a Borrower, free and clear of any liens, restrictions or encumbrances other than Permitted Liens and the security interest and liens of Agent (and Agent shall have received such evidence thereof as Agent may require) and Agent shall have received such deeds, assignments or other agreements as Agent may request to evidence and confirm the transfer of such assets of such Guarantor to a Borrower, (D) Agent shall have received all documents and agreements that any Borrower or Guarantor has filed with any Governmental Authority or as are otherwise required to effectuate such winding up, liquidation or dissolution, (E) no Borrower or Guarantor shall assume any Indebtedness, obligations or liabilities as a result of such winding up, liquidation or dissolution, or otherwise become liable in respect of any obligations or liabilities of the entity that is winding up, liquidating or dissolving, unless such Indebtedness is otherwise expressly permitted hereunder, (F) Agent shall have received not less than ten (10) Business Days prior written notice of the intention of such Guarantor to wind up, liquidate or dissolve, and (G) as of the date of such winding up, liquidation or dissolution and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing and (ii) any Foreign Subsidiary may wind up, liquidate and dissolve, provided, that, (A) Agent shall have received not less than ten (10) Business Days prior written notice of the intention of such Foreign Subsidiary to wind up, liquidate or dissolve, and (B) as of the date of such winding up, liquidation or dissolution and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing; or

(d) agree to do any of the foregoing.

9.8 Encumbrances. Each Borrower and Guarantor shall not, and shall not permit any Subsidiary to, create, incur, assume or suffer to exist any security interest, mortgage, pledge, lien, charge or other encumbrance of any nature whatsoever on any of its assets or properties, including the Collateral, or file or permit the filing of, or permit to remain in effect, any financing statement or other similar notice of any security interest or lien with respect to any such assets or properties, except the following (collectively, "Permitted Liens"):

(a) the security interests and liens of Agent for itself and the benefit of Secured Parties and the rights of setoff of Secured Parties provided for herein or under applicable law;

(b) liens securing the payment of taxes, assessments or other governmental charges or levies either not yet overdue or the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to such Borrower, or Guarantor or Domestic Subsidiary, as the case may be and with respect to which adequate reserves have been set aside on its books;

(c) non-consensual statutory liens (other than liens securing the payment of taxes) arising in the ordinary course of such Borrower's, Guarantor's or Domestic Subsidiary's business to the extent: (i) such liens secure Indebtedness which is not overdue or (ii) such liens secure Indebtedness relating to claims or liabilities which are fully insured and being defended at the sole cost and expense and at the sole risk of the insurer or being contested in good faith by appropriate proceedings diligently pursued and available to such Borrower, Guarantor or such Domestic Subsidiary, in each case prior to the commencement of foreclosure or other similar proceedings and with respect to which adequate reserves have been set aside on its books;

(d) zoning restrictions, easements, licenses, covenants and other restrictions affecting the use of Real Property which do not interfere in any material respect with the use of such Real Property or ordinary conduct of the business of such Borrower, Guarantor or such Domestic Subsidiary as presently conducted thereon or materially impair the value of the Real Property which may be subject thereto;

(e) purchase money security interests in Equipment (including Capital Leases) and purchase money mortgages on Real Property to secure Indebtedness permitted under Section 9.9(b) hereof;

(f) pledges and deposits of cash by any Borrower or Guarantor after the date hereof in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security benefits consistent with the current practices of such Borrower or Guarantor as of the date hereof;

(g) pledges and deposits of cash by any Borrower or Guarantor after the date hereof to secure the performance of tenders, bids, leases, trade contracts (other than for the repayment of Indebtedness), statutory obligations and other similar obligations in each case in the ordinary course of business consistent with the current practices of such Borrower or Guarantor as of the date hereof; provided, that, in connection with any performance bonds issued by a surety or other person, the issuer of such bond shall have waived in writing any rights in or to, or other interest in, any of the Collateral in an agreement, in form and substance satisfactory to Agent;

(h) liens arising from (i) operating leases and the precautionary UCC financing statement filings in respect thereof and (ii) equipment or other materials which are not owned by any Borrower or Guarantor located on the premises of such Borrower or Guarantor (but not in connection with, or as part of, the financing thereof) from time to time in the ordinary course of business and consistent with current practices of such Borrower or Guarantor and the precautionary UCC financing statement filings in respect thereof;

(i) judgments and other similar liens arising in connection with court proceedings that do not constitute an Event of Default, provided, that, (i) such liens are being contested in good faith and by appropriate proceedings diligently pursued, (ii) adequate reserves or other appropriate provision, if any, as are required by GAAP have been made therefor, (iii) a stay of enforcement of any such liens is in effect, and (iv) Agent may establish a Reserve with respect thereto; and

(j) the security interests and liens set forth on Schedule 8.4 to the Information Certificate.

9.9 Indebtedness. Each Borrower and Guarantor shall not, and shall not permit any Subsidiary to, incur, create, assume, become or be liable in any manner with respect to, or permit to exist, any Indebtedness, or guarantee, assume, endorse, or otherwise become responsible for (directly or indirectly), the Indebtedness, performance, obligations or dividends of any other Person, except:

(a) the Obligations;

(b) purchase money Indebtedness (including Capital Leases) arising after the date hereof to the extent secured by purchase money security interests in Equipment (including Capital Leases) and purchase money mortgages on Real Property not to exceed \$5,000,000 in the aggregate at any time outstanding so long as such security interests and mortgages do not apply to any property of such Borrower, Guarantor or Domestic Subsidiary other than the Equipment or Real Property so acquired, and the Indebtedness secured thereby does not exceed the cost of the Equipment or Real Property so acquired, as the case may be;

(c) guarantees by any Borrower or Guarantor of the Obligations of the other Borrowers or Guarantors in favor of Agent for the benefit of the Secured Parties

(d) the Indebtedness of any Borrower or Guarantor to any other Borrower or Guarantor arising after the date hereof pursuant to loans by any Borrower or Guarantor permitted under Section 9.10(g) or the Indebtedness of any Borrower or Guarantor to any Foreign Subsidiary arising after the date hereof pursuant to loans by any Foreign Subsidiary permitted under Section 9.10(h) hereof;

(e) Indebtedness of any Borrower or Guarantor entered into in the ordinary course of business pursuant to a Hedge Agreement; provided, that, (i) such arrangements are not for speculative purposes, (ii) such Indebtedness shall be unsecured, except to the extent such

Indebtedness constitutes part of the Obligations arising under or pursuant to Hedge Agreements with any Bank Product Provider that are secured under the terms hereof or except to the extent secured by pledges or deposits of cash as permitted under Section 9.8 hereof and (iii) the terms and amounts of such Indebtedness shall be reasonably acceptable to Agent;

(f) Indebtedness of any Foreign Subsidiary arising after the date hereof, provided, that, (i) as to any such Indebtedness, Borrower shall not be directly or indirectly liable (by virtue of Borrower being the primary obligor on, guarantor of, or otherwise liable in any respect of such Indebtedness), and (ii) any default by a Foreign Subsidiary in respect of such Indebtedness shall not constitute a default in respect of any Indebtedness of a Borrower or Guarantor;

(g) unsecured Indebtedness of any Borrower or Guarantor arising after the date hereof to any third person (but not to any other Borrower or Guarantor), provided, that, each of the following conditions is satisfied as determined by Agent: (i) such Indebtedness shall be on terms and conditions acceptable to Agent and shall be subject and subordinate in right of payment to the right of Agent and Lenders to receive the prior indefeasible payment and satisfaction in full payment of all of the Obligations pursuant to the terms of an intercreditor agreement between Agent and such third party, in form and substance satisfactory to Agent, (ii) Agent shall have received not less than ten (10) days prior written notice of the intention of such Borrower or Guarantor to incur such Indebtedness, which notice shall set forth in reasonable detail satisfactory to Agent the amount of such Indebtedness, the person or persons to whom such Indebtedness will be owed, the interest rate, the schedule of repayments and maturity date with respect thereto and such other information as Agent may request with respect thereto, (iii) Agent shall have received true, correct and complete copies of all agreements, documents and instruments evidencing or otherwise related to such Indebtedness, (iv) except as Agent may otherwise agree in writing, on and after a Cash Dominion Event and for so long as the same is continuing, all of the proceeds of the loans or other accommodations giving rise to such Indebtedness shall be paid to Agent for application to the Obligations in such order and manner as Agent may determine or at Agent's option, to be held as cash collateral for the Obligations, (v) in no event shall the aggregate principal amount of such Indebtedness incurred during the term of this Agreement exceed \$500,000, (vi) such Borrower and Guarantor shall not, directly or indirectly, (A) amend, modify, alter or change the terms of such Indebtedness or any agreement, document or instrument related thereto, except, that, such Borrower or Guarantor may, after prior written notice to Agent, amend, modify, alter or change the terms thereof so as to extend the maturity thereof, or defer the timing of any payments in respect thereof, or to forgive or cancel any portion of such Indebtedness (other than pursuant to payments thereof), or to reduce the interest rate or any fees in connection therewith, or (B) redeem, retire, defease, purchase or otherwise acquire such Indebtedness (except pursuant to regularly scheduled payments permitted herein), or set aside or otherwise deposit or invest any sums for such purpose, and (vii) Borrowers and Guarantors shall furnish to Agent all notices or demands in connection with such Indebtedness either received by any Borrower or Guarantor or on its behalf promptly after the receipt thereof, or sent by any Borrower or Guarantor or on its behalf concurrently with the sending thereof, as the case may be;

(h) Indebtedness of Parent evidenced by or arising under the Merix 6.5% Debenture (as in effect on the date hereof), provided, that:

(i) the principal amount of such Indebtedness shall be not more than \$25,000,000 at any time, less the aggregate amount of all repayments, repurchases or redemptions thereof, whether optional or mandatory, plus interest thereon at the rate provided in the Merix 6.5% Debenture as in effect on the date hereof,

(ii) Borrowers and Guarantors shall not, directly or indirectly, make any payments of principal or interest in respect of such Indebtedness, except, that, (A) Parent may make regularly scheduled payments of principal and interest when due in accordance with the terms of the Merix 6.5% Debenture (as in effect on the date hereof) and (B) Parent may prepay, redeem or retire such Indebtedness to the extent permitted under Section 9.9(h)(iv) below,

(iii) Borrowers and Guarantors shall not, directly or indirectly, amend, modify, alter or change any of the material terms of such Indebtedness or the Merix 6.5% Debenture (as in effect on the date hereof), except, that, Parent may, after prior written notice to Agent, amend, modify, alter or change the terms thereof so as to extend the maturity thereof or defer the timing of any payments in respect thereof or to forgive or cancel any portion of such indebtedness other than pursuant to payments thereof, or to reduce the interest rate or any fees in connection therewith, to make any covenant or event of default less restrictive or burdensome to Borrowers and Guarantors

(iv) Borrowers and Guarantors shall not, directly or indirectly, prepay, redeem, retire, defease, purchase or otherwise acquire such indebtedness, or set aside or otherwise deposit or invest any sums for such purpose, except that:

(A) Parent may prepay, redeem or retire such Indebtedness with Refinancing Indebtedness with respect thereto permitted under Section 9.9(j) hereof,

(B) Parent may prepay, redeem or retire such Indebtedness with the net proceeds of the issuance and sale of Capital Stock of Parent permitted hereunder received by Parent in cash or other immediately available funds, provided, that, the prepayment, redemption or retirement of such Indebtedness shall be substantially contemporaneous with the issuance and sale of the Capital Stock of Parent and as of the date of any such payment and after giving effect thereto, there shall be Excess Availability and no Default or Event of Default shall exist or have occurred and be continuing,

(C) Parent may convert such Indebtedness to shares of Capital Stock of Parent in accordance with the terms of the Merix 6.5% Debenture (as in effect on the date hereof),

(D) Parent may prepay, redeem or retire such Indebtedness in cash or other immediately available funds (other than with proceeds of the issuance and sale of Capital Stock of Parent as provided in clause (B) above or with proceeds of Refinancing Indebtedness as provided in clause (A) above); provided, that, as of the date of any such prepayment, redemption or retirement, Agent shall have received not less than two (2) Business Days' prior written notice of the intention of Borrowers to so prepay, redeem or retire such Indebtedness, the Excess Availability for each of the immediately preceding ten (10) consecutive days prior to the date of any payment in respect thereof shall have been not less than \$20,000,000 and as of the date of

any such payment and after giving effect thereto, the Excess Availability shall be not less than \$20,000,000 and no Default or Event of Default shall exist or have occurred and be continuing; and

(v) Borrowers and Guarantors shall furnish to Agent all material notices or demands in connection with such Indebtedness either received by any Borrower or Guarantor or on its behalf promptly after the receipt thereof, or sent by any Borrower or Guarantor or on its behalf concurrently with the sending thereof, as the case may be;

(i) Indebtedness of Parent evidenced by or arising under the Merix \$2,000,000 Note (as in effect on the date hereof), provided, that:

(i) the principal amount of such Indebtedness shall be not more than \$2,000,000 at any time, less the aggregate amount of all repayments, repurchases or redemptions thereof, whether optional or mandatory, plus interest thereon at the rate provided in the Merix \$2,000,000 Note as in effect on the date hereof,

(ii) Borrowers and Guarantors shall not, directly or indirectly, make any payments of principal or interest in respect of such Indebtedness, except, that, (A) Parent may make regularly scheduled payments of principal and interest when due in accordance with the terms of the Merix \$2,000,000 Note (as in effect on the date hereof) and (B) Parent may prepay, redeem or retire such Indebtedness to the extent permitted under Section 9.9(i)(iv) below,

(iii) Borrowers and Guarantors shall not, directly or indirectly, amend, modify, alter or change any of the material terms of such Indebtedness or the Merix \$2,000,000 Note (as in effect on the date hereof), except, that, Parent may, after prior written notice to Agent, amend, modify, alter or change the terms thereof so as to extend the maturity thereof or defer the timing of any payments in respect thereof or to forgive or cancel any portion of such indebtedness other than pursuant to payments thereof, or to reduce the interest rate or any fees in connection therewith, to make any covenant or event of default less restrictive or burdensome to Borrowers and Guarantors

(iv) Borrowers and Guarantors shall not, directly or indirectly, prepay, redeem, retire, defease, purchase or otherwise acquire such Indebtedness, or set aside or otherwise deposit or invest any sums for such purpose, except that Borrowers or Guarantors may prepay, redeem or retire all or any part of such Indebtedness, provided, that, as of the date of any such prepayment, redemption or purchase or any payment in respect thereof and after giving effect thereto, (A) Agent shall have received not less than two (2) Business Days' prior written notice of the intention of Borrowers to so prepay, redeem or retire all or any part of such Indebtedness, (B) the Excess Availability for each of the immediately preceding ten (10) consecutive days prior to the date of any payment in respect thereof shall have been not less than \$10,000,000 and as of the date of any such payment and after giving effect thereto, the Excess Availability shall be not less than \$10,000,000, and (C) as of the date of any such payment and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing; and

(v) Borrowers and Guarantors shall furnish to Agent all material notices or demands in connection with such Indebtedness either received by any Borrower or Guarantor or on its behalf promptly after the receipt thereof, or sent by any Borrower or Guarantor or on its behalf concurrently with the sending thereof, as the case may be;

(j) Indebtedness of Parent arising after the date hereof issued in exchange for, or the proceeds of which are used to extend, refinance, replace or substitute for Indebtedness permitted under Section 9.9(h) hereof (the “Refinancing Indebtedness”); provided, that, as to any such Refinancing Indebtedness, each of the following conditions is satisfied: (i) Agent shall have received not less than ten (10) Business Days’ prior written notice of the intention to incur such Indebtedness, which notice shall set forth in reasonable detail the amount of such Indebtedness, the schedule of repayments and maturity date with respect thereto and such other information with respect thereto as Agent may reasonably request, (ii) promptly upon Agent’ s request, Agent shall have received true, correct and complete copies of all agreements, documents and instruments evidencing or otherwise related to such Indebtedness, as duly authorized, executed and delivered by the parties thereto, (iii) the Refinancing Indebtedness shall not require any payments of, or in respect of, principal prior to the Maturity Date (including any sinking fund payments or similar type of payments), (iv) the Refinancing Indebtedness shall be unsecured, (v) the Refinancing Indebtedness shall not include terms and conditions with respect to any Borrower or Guarantor which are more burdensome or restrictive in any material respect than those included in the Indebtedness so extended, refinanced, replaced or substituted for, (vi) such Indebtedness incurred by any Borrower or Guarantor shall be at rates and with fees or other charges that are commercially reasonable and be owing to a person or persons that are not Affiliates, (vii) the incurring of such Indebtedness shall not result in an Event of Default, (viii) the principal amount of such Refinancing Indebtedness shall not exceed the principal amount of \$35,000,000 (plus the amount of refinancing fees and expenses incurred in connection therewith outstanding on the date of such event), provided that all amounts thereof in excess of the Indebtedness being extended, refinanced, replaced or substituted for shall be paid to Agent for application to the Obligations in such order and manner Agent may determine, (ix) Borrowers and Guarantors shall not, directly or indirectly, (A) amend, modify, alter or change any terms of the agreements with respect to such Refinancing Indebtedness, except that Borrowers and Guarantors may, after prior written notice to Agent, amend, modify, alter or change the terms thereof to the extent permitted with respect to the Indebtedness so extended, refinanced, replaced or substituted for, or (B) redeem, retire, defease, purchase or otherwise acquired such Indebtedness, or set aside or otherwise deposit or invest any sums for such purpose (other than with Refinancing Indebtedness to the extent permitted herein and to the extent permitted with respect to the Indebtedness so extended, refinanced, replaced or substituted for), and (x) Borrowers and Guarantors shall furnish to Agent copies of all material notices or demands in connection with Indebtedness received by any Borrower or Guarantor or on its behalf promptly after the receipt thereof or sent by any Borrower or Guarantor or on its behalf concurrently with the sending thereof, as the case may be; and

(k) the Indebtedness set forth on Schedule 9.9 to the Information Certificate; provided, that, (i) Borrowers and Guarantors may only make regularly scheduled payments of principal and interest in respect of such Indebtedness in accordance with the terms of the agreement or instrument evidencing or giving rise to such Indebtedness as in effect on the date hereof, (ii) Borrowers and Guarantors shall not, directly or indirectly, (A) amend, modify, alter or change the terms of such Indebtedness or any agreement, document or instrument related thereto as in effect on the date hereof except, that, Borrowers and Guarantors may, after prior

written notice to Agent, amend, modify, alter or change the terms thereof so as to extend the maturity thereof, or defer the timing of any payments in respect thereof, or to forgive or cancel any portion of such Indebtedness (other than pursuant to payments thereof), or to reduce the interest rate or any fees in connection therewith, or (B) redeem, retire, defease, purchase or otherwise acquire such Indebtedness, or set aside or otherwise deposit or invest any sums for such purpose, (iii) Borrowers and Guarantors shall furnish to Agent all notices or demands in connection with such Indebtedness either received by any Borrower or Guarantor or on its behalf, promptly after the receipt thereof, or sent by any Borrower or Guarantor or on its behalf, concurrently with the sending thereof, as the case may be.

9.10 Loans, Investments, Etc. Each Borrower and Guarantor shall not, and shall not permit any Subsidiary to, directly or indirectly, purchase, hold or acquire (including pursuant to any merger with any Person that was not a wholly owned Subsidiary immediately prior to such merger) any Capital Stock, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person constituting a business unit or all or a substantial part of the assets or property of any other Person (whether through purchase of assets, merger or otherwise), or form or acquire any Subsidiaries, or agree to do any of the foregoing (each of the foregoing an "Investment"), except:

(a) the endorsement of instruments for collection or deposit in the ordinary course of business;

(b) Investments in cash or Cash Equivalents, provided, that, the terms and conditions of Section 5.2 hereof shall have been satisfied with respect to the deposit account, investment account or other account in which such cash or Cash Equivalents are held;

(c) the existing equity investments of each Borrower and Guarantor as of the date hereof in its Subsidiaries, provided, that, no Borrower or Guarantor shall have any further obligations or liabilities to make any capital contributions or other additional investments or other payments to or in or for the benefit of any of such Subsidiaries;

(d) loans and advances by any Borrower or Guarantor to employees of such Borrower or Guarantor not to exceed the principal amount of \$50,000 in the aggregate at any time outstanding for: (i) reasonably and necessary work-related travel or other ordinary business expenses to be incurred by such employee in connection with their work for such Borrower or Guarantor and (ii) reasonable and necessary relocation expenses of such employees (including home mortgage financing for relocated employees);

(e) stock or obligations issued to any Borrower or Guarantor by any Person (or the representative of such Person) in respect of Indebtedness of such Person owing to such Borrower or Guarantor in connection with the insolvency, bankruptcy, receivership or reorganization of such Person or a composition or readjustment of the debts of such Person; provided, that, the original of any such stock or instrument evidencing such obligations shall be promptly delivered to Agent, upon Agent's request, together with such stock power, assignment or endorsement by such Borrower or Guarantor as Agent may request;

(f) obligations of account debtors to any Borrower or Guarantor arising from Accounts which are past due evidenced by a promissory note made by such account debtor payable to such Borrower or Guarantor; provided, that, promptly upon the receipt of the original of any such promissory note by such Borrower or Guarantor, such promissory note shall be endorsed to the order of Agent by such Borrower or Guarantor and promptly delivered to Agent as so endorsed;

(g) loans by a Borrower or Guarantor to another Borrower or Guarantor after the date hereof, provided, that,

(i) as to all of such loans, (A) within thirty (30) days after the end of each fiscal month, Borrowers shall provide to Agent a report in form and substance satisfactory to Agent of the outstanding amount of such loans as of the last day of the immediately preceding month and indicating any loans made and payments received during the immediately preceding month, (B) the Indebtedness arising pursuant to any such loan shall not be evidenced by a promissory note or other instrument, unless the single original of such note or other instrument is promptly delivered to Agent upon its request to hold as part of the Collateral, with such endorsement and/or assignment by the payee of such note or other instrument as Agent may require, (C) as of the date of any such loan and after giving effect thereto, the Borrower or Guarantor making such loan shall be Solvent, and (D) as of the date of any such loan and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing,

(ii) as to loans by a Guarantor to a Borrower, (A) the Indebtedness arising pursuant to such loan shall be subject to, and subordinate in right of payment to, the right of Agent and Lenders to receive the prior final payment and satisfaction in full of all of the Obligations on terms and conditions acceptable to Agent, (B) promptly upon Agent's request, Agent shall have received a subordination agreement, in form and substance satisfactory to Agent, providing for the terms of the subordination in right of payment of such Indebtedness of such Borrower to the prior final payment and satisfaction in full of all of the Obligations, duly authorized, executed and delivered by such Guarantor and such Borrower, and (C) such Borrower shall not, directly or indirectly make, or be required to make, any payments in respect of such Indebtedness prior to the end of the then current term of this Agreement;

(h) loans by a Borrower or Guarantor to a Foreign Subsidiary after the date hereof (other than the loan by Parent to Merix Cayman Trading Company Limited after the date hereof provided for in Section 9.10(m) below) not to exceed the principal amount of \$10,000,000 in the aggregate at any time outstanding, provided, that, as of the date of any such loan and after giving effect thereto, (i) Agent shall have received not less than two (2) Business Days' prior written notice of the intention of Borrowers to make such loan, (ii) the Excess Availability for each of the immediately preceding ten (10) consecutive days prior to the date of any such loan shall have been not less than \$15,000,000 and as of the date of any such loan and after giving effect thereto, the Excess Availability shall be not less than \$10,000,000, (iii) as of the date of such loan and after giving effect thereto, the Fixed Charge Coverage Ratio for Parent and its Subsidiaries determined on a pro forma basis as of such date, shall be not less than 1.10 to 1.0 and Agent shall

have received such evidence thereof as Agent may require, including a certificate of the chief financial officer of Parent with respect thereto, in form and substance satisfactory to Agent, (iv) as of the date of any such loan and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be continuing, and (v) the Indebtedness arising pursuant to any such loan shall not be evidenced by a promissory note or other instrument unless the single original of such note or other instrument shall have been promptly delivered to Agent upon its request to hold as part of the Collateral, with such endorsement and/or assignment by the payee of such note or other instrument as Agent may require;

(i) Investments by any Foreign Subsidiary after the date hereof to or in any Person, provided, that, (i) in no event shall any Borrower or Guarantor make, or be required to make, any payment or incur any obligation or liability (contingent or otherwise) in connection with any such Investment, and (ii) in the case of any Investment constituting a loan or advance to a Borrower or Guarantor (A) the Indebtedness arising pursuant to such loan shall be subject to, and subordinate in right of payment to, the right of Agent and Lenders to receive the prior final payment and satisfaction in full of all of the Obligations on terms and conditions acceptable to Agent, (B) promptly upon Agent's request, Agent shall have received a subordination agreement, in form and substance satisfactory to Agent, providing for the terms of the subordination in right of payment of such Indebtedness of such Borrower to the prior final payment and satisfaction in full of all of the Obligations, duly authorized, executed and delivered by such Guarantor and such Borrower, and (C) such Borrower shall not, directly or indirectly make, or be required to make, any payments in respect of such Indebtedness prior to the end of the then current term of this Agreement;

(j) the EPC Acquisition;

(k) the loan by Parent to Merix Caymans Trading Company Limited on the date hereof in an amount not to exceed \$55,000,000, all of the proceeds of which will be used by Merix Caymans Trading Company Limited to (i) pay a portion of the purchase price in connection with the EPC Acquisition, (ii) pay certain fees, costs and expenses in connection with the EPC Acquisition and the credit facility obtained by Merix Caymans Trading Company Limited from certain lenders for whom Standard Chartered Bank (Hong Kong) Limited is the facility agent upon the consummation of the EPC Acquisition and (iii) provide up to \$6,000,000 of cash for working capital of Merix Caymans Trading Company Limited and its subsidiaries; provided, that, the Indebtedness arising pursuant to such loan shall not be evidenced by a promissory note or other instrument unless the single original of such note or other instrument shall have been promptly delivered to Agent upon its request to hold as part of the Collateral, with such endorsement and/or assignment by the payee of such note or other instrument as Agent may require;

(l) the equity capital contribution by Parent to Asia on the date hereof in the amount not to exceed of \$30,000,000, all of the proceeds of which will be used by Asia on the date hereof to make a cash equity capital contribution to Merix Caymans Holding Limited and by Merix Caymans Holding Limited on the date hereof to make a cash equity capital contribution to Merix Caymans Trading Company Limited, all of the proceeds of which Merix Caymans Trading Company Limited will use to pay a portion of the purchase price in connection with the EPC Acquisition;

(m) the loan by Parent to Merix Caymans Trading Company Limited within one hundred twenty (120) days after the date hereof in an amount not to exceed \$2,000,000, all of the proceeds of which will be used by Merix Caymans Trading Company Limited to pay the working capital purchase price adjustment, if any, required to be paid by it under the EPC Acquisition Documents (as in effect on the date hereof); provided, that, (i) Parent shall only make such loan in the amount of, and to the extent that, it is required to make any payment of such working capital purchase price adjustment and (ii) the Indebtedness arising pursuant to such loan shall not be evidenced by a promissory note or other instrument unless the single original of such note or other instrument shall have been promptly delivered to Agent upon its request to hold as part of the Collateral, with such endorsement and/or assignment by the payee of such note or other instrument as Agent may require;

(n) the loans and advances set forth on Schedule 9.10 to the Information Certificate; provided, that, as to such loans and advances, Borrowers and Guarantors shall not, directly or indirectly, amend, modify, alter or change the terms of such loans and advances or any agreement, document or instrument related thereto and Borrowers and Guarantors shall furnish to Agent all notices or demands in connection with such loans and advances either received by any Borrower or Guarantor or on its behalf, promptly after the receipt thereof, or sent by any Borrower or Guarantor or on its behalf, concurrently with the sending thereof, as the case may be.

9.11 Dividends and Redemptions. Each Borrower and Guarantor shall not, directly or indirectly, declare or pay any dividends on account of any shares of any class of its Capital Stock now or hereafter outstanding, or set aside or otherwise deposit or invest any sums for such purpose, or redeem, retire, defease, purchase or otherwise acquire any shares of any class of its Capital Stock (or set aside or otherwise deposit or invest any sums for such purpose) for any consideration or apply or set apart any sum, or make any other distribution (by reduction of capital or otherwise) in respect of any such shares or agree to do any of the foregoing, except that:

(a) it may declare and pay such dividends or redeem, retire, defease, purchase or otherwise acquire any shares of any class of its Capital Stock for consideration in the form of shares of common stock (so long as after giving effect thereto no Change of Control or other Default or Event of Default shall exist or occur);

(b) it may pay dividends to the extent permitted in Section 9.12 below;

(c) any Foreign Subsidiary may pay any dividends to its shareholders;

(d) any other Subsidiary of Parent may pay dividends to its shareholders;

(e) it may repurchase Capital Stock consisting of common stock held by employees pursuant to any employee stock option plan, or in the case of an employee stock ownership plan upon the termination, retirement or death of any such employee in accordance with the provisions of such employee stock ownership plan, provided, that, as to any such repurchase, each of the following conditions is satisfied:

(i) as of the date of the payment for such repurchase and after giving effect thereto, no Default or Event of Default shall exist or have occurred and be

continuing, (ii) such repurchase shall be paid with funds legally available therefor, (iii) such repurchase shall not violate any law or regulation or the terms of any indenture, agreement or undertaking to which such Borrower or Guarantor is a party or by which such Borrower or Guarantor or its or their property are bound, and (iv) the aggregate amount of all payments for such repurchases in any calendar year shall not exceed \$100,000.

9.12 Transactions with Affiliates. Each Borrower and Guarantor shall not, directly or indirectly:

(a) purchase, acquire or lease any property from, or sell, transfer or lease any property to, any officer, director or other Affiliate of such Borrower or Guarantor, except in the ordinary course of and pursuant to the reasonable requirements of such Borrower's or Guarantor's business (as the case may be) and upon fair and reasonable terms no less favorable to such Borrower or Guarantor than such Borrower or Guarantor would obtain in a comparable arm's length transaction with an unaffiliated person; or

(b) make any payments (whether by dividend, loan or otherwise) of management, consulting or other fees for management or similar services, or of any Indebtedness owing to any officer, employee, shareholder, director or any other Affiliate of such Borrower or Guarantor, except reasonable compensation to officers, employees and directors for services rendered to such Borrower or Guarantor in the ordinary course of business.

9.13 Compliance with ERISA. Except as set forth on Schedule 8.9 hereto, each Borrower and Guarantor shall, and shall cause each of its ERISA Affiliates to: (a) maintain each Plan in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal and State law; (b) cause each Plan which is qualified under Section 401(a) of the Code to maintain such qualification; (c) not terminate any Pension Plan so as to incur any material liability to the Pension Benefit Guaranty Corporation; (d) not allow or suffer to exist any prohibited transaction involving any Plan or any trust created thereunder which would subject such Borrower, Guarantor or such ERISA Affiliate to a material tax or other liability on prohibited transactions imposed under Section 4975 of the Code or ERISA; (e) make all required contributions to any Plan which it is obligated to pay under Section 302 of ERISA, Section 412 of the Code or the terms of such Plan; (f) not allow or suffer to exist any accumulated funding deficiency, whether or not waived, with respect to any such Pension Plan; (g) not engage in a transaction that could be subject to Section 4069 or 4212(c) of ERISA; or (h) not allow or suffer to exist any occurrence of a reportable event or any other event or condition which presents a material risk of termination by the Pension Benefit Guaranty Corporation of any Plan that is a single employer plan, which termination could result in any material liability to the Pension Benefit Guaranty Corporation.

9.14 End of Fiscal Years; Fiscal Quarters. Each Borrower and Guarantor shall, for financial reporting purposes, cause its, and each of its Subsidiaries' (a) fiscal years to end on the last Saturday in May of each year and (b) fiscal quarters to end on the date for the end of each such fiscal quarter set forth on Schedule 9.14 hereto.

9.15 Change in Business. Each Borrower and Guarantor shall not engage in any business other than the business of such Borrower or Guarantor on the date hereof and any business reasonably related, ancillary or complimentary to the business in which such Borrower or Guarantor is engaged on the date hereof.

9.16 Limitation of Restrictions Affecting Subsidiaries. Each Borrower and Guarantor shall not, directly, or indirectly, create or otherwise cause or suffer to exist any encumbrance or restriction which prohibits or limits the ability of any Subsidiary of such Borrower or Guarantor to (a) pay dividends or make other distributions or pay any Indebtedness owed to such Borrower or Guarantor or any Subsidiary of such Borrower or Guarantor; (b) make loans or advances to such Borrower or Guarantor or any Subsidiary of such Borrower or Guarantor, (c) transfer any of its properties or assets to such Borrower or Guarantor or any Subsidiary of such Borrower or Guarantor; or (d) create, incur, assume or suffer to exist any lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than encumbrances and restrictions arising under (i) applicable law, (ii) this Agreement, (iii) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of such Borrower or Guarantor or any Subsidiary of such Borrower or Guarantor, (iv) customary restrictions on dispositions of real property interests found in reciprocal easement agreements of such Borrower or Guarantor or any Subsidiary of such Borrower or Guarantor, (v) any agreement relating to permitted Indebtedness incurred by a Subsidiary of such Borrower or Guarantor prior to the date on which such Subsidiary was acquired by such Borrower or such Guarantor and outstanding on such acquisition date, and (vi) the extension or continuation of contractual obligations in existence on the date hereof; provided, that, any such encumbrances or restrictions contained in such extension or continuation are no less favorable to Agent and Lenders than those encumbrances and restrictions under or pursuant to the contractual obligations so extended or continued.

9.17 Fixed Charge Coverage Ratio. At any time prior to the first anniversary of the date hereof that the Excess Availability is less than \$20,000,000 or at any time thereafter that the Excess Availability is less than \$15,000,000, the Fixed Charge Coverage Ratio of Parent and its Domestic Subsidiaries (on a consolidated basis) for the last twelve (12) consecutive fiscal month period most recently ended for which Agent has received financial statements of Borrowers and Guarantors, shall be not less than 1.10:1.00 (provided, that, for the period prior to September 23, 2006, the Fixed Charges for purposes of calculating such ratio shall be based on the Fixed Charges for the period from September 24, 2005 through the last day of the immediately preceding fiscal month on an annualized basis, except for the principal payment in respect of the Merix \$2,000,000 Note due in December 2005 which shall not be annualized (but shall be included in the Fixed Charges on and after the date such payment is due or paid and thereafter for each applicable twelve (12) consecutive month period) and Capital Expenditures which shall be based on the amount thereof for the same period for which EBITDA is used for the calculation of the Fixed Charge Coverage Ratio at any time).

9.18 License Agreements.

(a) With respect to a License Agreement applicable to Intellectual Property that is owned by a third party and licensed to a Borrower or Guarantor and that is affixed to or otherwise used in connection with the manufacture, sale or distribution of any Inventory (other than an off-the-shelf product with a shrink wrap license) having a value in excess of \$500,000, at any time after the Inventory Availability Date or at such other time or times as Agent may

request, each Borrower and Guarantor shall (i) give Agent not less than ten (10) Business Days' prior written notice of its intention to not renew or to terminate, cancel, surrender or release its rights under any such License Agreement, or to amend any such License Agreement or related arrangements to limit the scope of the right of such Borrower or Guarantor to use the Intellectual Property subject to such License Agreement in any material respect, either with respect to product, territory, term or otherwise, or to increase in any material respect the amounts to be paid by such Borrower or Guarantor thereunder or in connection therewith (and Agent may establish such Reserves as a result of any of the foregoing as Agent may reasonably determine), (ii) give Agent prompt written notice of any such License Agreement entered into by such Borrower or Guarantor after the date hereof, or any material amendment to any such License Agreement existing on the date hereof, in each case together with a true, correct and complete copy thereof and such other information with respect thereto as Agent may in good faith request, (iii) give Agent prompt written notice of any material breach of any obligation, or any default, by the third party that is the licensor or by the Borrower or Guarantor that is the licensee or any other party under any such License Agreement, and deliver to Agent (promptly upon the receipt thereof by such Borrower or Guarantor in the case of a notice to such Borrower or Guarantor and concurrently with the sending thereof in the case of a notice from such Borrower or Guarantor) a copy of each notice of default and any other notice received or delivered by such Borrower or Guarantor in connection with any such a License Agreement that relates to the scope of the right, or the continuation of the right, of such Borrower or Guarantor to use the Intellectual Property subject to such License Agreement or the amounts required to be paid thereunder.

(b) With respect to a License Agreement applicable to Intellectual Property that is owned by a third party and licensed to a Borrower or Guarantor and that is affixed to or otherwise used in connection with the manufacture, sale or distribution of any Inventory (other than an off-the-shelf product with a shrink wrap license) having a value in excess of \$500,000, at any time an Event of Default shall exist or have occurred and be continuing or on and after the Inventory Availability Date, if after giving effect to any Reserves, or the reduction in the applicable Borrowing Base as a result of Eligible Inventory using such licensed Intellectual Property ceasing to be Eligible Inventory, the Excess Availability is less than \$5,000,000, Agent shall have, and is hereby granted, the irrevocable right and authority, at its option, to renew or extend the term of such License Agreement, whether in its own name and behalf, or in the name and behalf of a designee or nominee of Agent or in the name and behalf of such Borrower or Guarantor, subject to and in accordance with the terms of such License Agreement. Agent may, but shall not be required to, perform any or all of such obligations of such Borrower or Guarantor under any of the License Agreements, including, but not limited to, the payment of any or all sums due from such Borrower or Guarantor thereunder. Any sums so paid by Agent shall constitute part of the Obligations.

9.19 Foreign Assets Control Regulations, Etc. None of the requesting or borrowing of the Loans or the requesting or issuance, extension or renewal of any Letter of Credit or the use of the proceeds of any thereof will violate the Trading With the Enemy Act (50 USC §1 et seq., as amended) (the "Trading With the Enemy Act") or any of the foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V, as amended) (the "Foreign Assets Control Regulations") or any enabling legislation or executive order relating thereto (including, but not limited to (a) Executive order 13224 of September 21, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or

Support Terrorism (66 Fed. Reg. 49079 (2001)) (the “Executive Order”) and (b) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56). None of Borrowers or any of their Subsidiaries or other Affiliates is or will become a “blocked person” as described in the Executive Order, the Trading with the Enemy Act or the Foreign Assets Control Regulations or engages or will engage in any dealings or transactions, or be otherwise associated, with any such “blocked person”.

9.20 After Acquired Real Property. If any Borrower or Guarantor hereafter acquires any Real Property, fixtures or any other property that is of the kind or nature described in the Mortgage and such Real Property, fixtures or other property is adjacent to, contiguous with or necessary or related to or used in connection with any Real Property then subject to a Mortgage, without limiting any other rights of Agent or any Lender, or duties or obligations of any Borrower or Guarantor, promptly upon Agent’s request, such Borrower or Guarantor shall execute and deliver to Agent a mortgage, deed of trust or deed to secure debt, as Agent may determine, in form and substance substantially similar to the Mortgage and as to any provisions relating to specific state laws satisfactory to Agent and in form appropriate for recording in the real estate records of the jurisdiction in which such Real Property or other property is located granting to Agent a first and only lien and mortgage on and security interest in such Real Property, fixtures or other property (except as such Borrower or Guarantor would otherwise be permitted to incur hereunder or under the Mortgage or as otherwise consented to in writing by Agent), an environmental assessment thereof acceptable to Required Lenders and such other agreements, documents and instruments as Agent may require in connection therewith.

9.21 Merix B.V.

(a) Except as otherwise provided in Section 9.21(b) below, Borrowers and Guarantors will not permit Merix B.V. to (i) engage in any business or conduct any operations, (ii) own assets with a book value of more than \$25,000 in the aggregate and (iii) incur any obligations or liabilities in respect of any Indebtedness or otherwise.

(b) In the event that Parent intends to have Merix B.V. commence any business or operations or own assets with a book value of more than \$25,000 in the aggregate or incur any obligations or liabilities in respect of any Indebtedness or otherwise, (i) Administrative Borrower shall give Agent not less than ten (10) Business Days’ prior written notice thereof with reasonable detail and specificity and such other information with respect thereto as Agent may request and (ii) at any time thereafter, promptly upon the request of Agent, Administrative Borrower shall cause Parent to execute and deliver to Agent, in form and substance satisfactory to Agent, a pledge agreement in favor of Agent providing among other things, the grant of a security interest in and lien upon, and pledge of, the Capital Stock of Merix B.V., together with (i) certificates evidencing all of the Capital Stock of Merix B.V., (ii) undated stock powers or other appropriate instruments of assignment executed in blank with signature guaranteed (provided, that, such pledge agreement shall not include more than sixty-five (65%) percent of the Capital Stock entitled to vote of Merix B.V. to secure the Obligations to the extent that the pledge of more than such percentage thereof would result in repatriation of earnings under Section 956 of the Code), (iii) to the extent required under applicable law the registration of the pledge to Agent in the share registry of Merix B.V., the affixing of a legend on the shares subject

to such pledge and such other actions as may be required under applicable law in connection therewith to establish the rights of Agent with respect thereto, and (iv) such opinions of counsel and such approving certificate of Merix B.V. as Agent may reasonably request in respect of complying with any legend on any such certificate or any other matter relating to such shares

9.22 Costs and Expenses. Borrowers and Guarantors shall pay to Agent on demand all costs, expenses, filing fees and taxes paid or payable in connection with the preparation, negotiation, execution, delivery, recording, syndication, administration, collection, liquidation, enforcement and defense of the Obligations, Agent's rights in the Collateral, this Agreement, the other Financing Agreements and all other documents related hereto or thereto, including any amendments, supplements or consents which may hereafter be contemplated (whether or not executed) or entered into in respect hereof and thereof, including: (a) all costs and expenses of filing or recording (including Uniform Commercial Code financing statement filing taxes and fees, documentary taxes, intangibles taxes and mortgage recording taxes and fees, if applicable); (b) costs and expenses and fees for insurance premiums, environmental audits, title insurance premiums, surveys, assessments, engineering reports and inspections, appraisal fees and search fees, background checks, costs and expenses of remitting loan proceeds, collecting checks and other items of payment, and establishing and maintaining the Blocked Accounts, together with Agent's customary charges and fees with respect thereto; (c) charges, fees or expenses charged by any Issuing Bank in connection with any Letter of Credit; (d) costs and expenses of preserving and protecting the Collateral; (e) costs and expenses paid or incurred in connection with obtaining payment of the Obligations, enforcing the security interests and liens of Agent, selling or otherwise realizing upon the Collateral, and otherwise enforcing the provisions of this Agreement and the other Financing Agreements or defending any claims made or threatened against Agent or any Lender arising out of the transactions contemplated hereby and thereby (including preparations for and consultations concerning any such matters); (f) all out-of-pocket expenses and costs heretofore and from time to time hereafter incurred by Agent during the course of periodic field examinations of the Collateral and such Borrower's or Guarantor's operations, plus a per diem charge at Agent's then standard rate for Agent's examiners in the field and office (which rate as of the date hereof is \$1,000 per person per day); and (g) the reasonable fees and disbursements of counsel (including legal assistants) to Agent in connection with any of the foregoing.

9.23 Further Assurances. At the request of Agent at any time and from time to time, Borrowers and Guarantors shall, at their expense, duly execute and deliver, or cause to be duly executed and delivered, such further agreements, documents and instruments, and do or cause to be done such further acts as may be necessary or proper to evidence, perfect, maintain and enforce the security interests and the priority thereof in the Collateral and to otherwise effectuate the provisions or purposes of this Agreement or any of the other Financing Agreements. Agent may at any time and from time to time request a certificate from an officer of any Borrower or Guarantor representing that all conditions precedent to the making of Loans and providing Letters of Credit contained herein are satisfied. In the event of such request by Agent, Agent and Lenders may, at Agent's option, cease to make any further Loans or provide any further Letters of Credit until Agent has received such certificate and, in addition, Agent has determined that such conditions are satisfied.

SECTION 10. EVENTS OF DEFAULT AND REMEDIES

10.1 Events of Default. The occurrence or existence of any one or more of the following events are referred to herein individually as an “Event of Default”, and collectively as “Events of Default”:

(a) (i) any Borrower fails to pay any of the Obligations when due or (ii) any Borrower or Guarantor fails to perform any of the covenants contained in Sections 9.3, 9.4, 9.13, 9.14, 9.15, and 9.16 of this Agreement and such failure shall continue for fifteen (15) days; provided, that, such fifteen (15) day period shall not apply in the case of: (A) any failure to observe any such covenant which is not capable of being cured at all or within such fifteen (15) day period or which has been the subject of a prior failure within a six (6) month period or (B) an intentional breach by any Borrower or Guarantor of any such covenant or (iii) any Borrower or Guarantor fails to perform any of the terms, covenants, conditions or provisions contained in this Agreement or any of the other Financing Agreements other than those described in Sections 10.1(a)(i) and 10.1(a)(ii) above;

(b) any representation, warranty or statement of fact made by any Borrower or Guarantor to Agent in this Agreement, the other Financing Agreements or any other written agreement, schedule, confirmatory assignment or otherwise shall when made or deemed made be false or misleading in any material respect;

(c) any Guarantor revokes or terminates or purports to revoke or terminate any guarantee, endorsement or other agreement of such party in favor of Agent or any Lender entered into in connection with the Obligations;

(d) any judgment for the payment of money is rendered against any Borrower or Guarantor in excess of \$250,000 in any one case or in excess of \$500,000 in the aggregate (to the extent not covered by insurance where the insurer has assumed responsibility in writing for such judgment) and shall remain undischarged or unvacated for a period in excess of thirty (30) days or execution shall at any time not be effectively stayed, or any judgment other than for the payment of money, or injunction, attachment, garnishment or execution is rendered against any Borrower or Guarantor or any of the Collateral having a value in excess of \$250,000;

(e) any Borrower or Guarantor makes an assignment for the benefit of creditors, makes or sends notice of a bulk transfer or calls a meeting of its creditors or principal creditors in connection with a moratorium or adjustment of the Indebtedness due to them;

(f) a case or proceeding under the bankruptcy laws of the United States of America now or hereafter in effect or under any insolvency, reorganization, receivership, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction now or hereafter in effect (whether at law or in equity) is filed against any Borrower or Guarantor or all or any part of its properties and such petition or application is not dismissed within sixty (60) days after the date of its filing or any Borrower or Guarantor shall file any answer admitting or not contesting such petition or application or indicates its consent to, acquiescence in or approval of, any such action or proceeding or the relief requested is granted sooner;

(g) a case or proceeding under the bankruptcy laws of the United States of America now or hereafter in effect or under any insolvency, reorganization, receivership, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction now or hereafter in effect (whether at a law or equity) is filed by any Borrower or Guarantor or for all or any part of its property;

(h) any default in respect of any Indebtedness of any Borrower or Guarantor (other than Indebtedness owing to Agent and Lenders hereunder), in any case in an amount in excess of \$500,000, which default continues for more than the applicable cure period, if any, with respect thereto or any default by any Borrower or Guarantor under any Material Contract, which default continues for more than the applicable cure period, if any, with respect thereto and/or is not waived in writing by the other parties thereto;

(i) any material provision hereof or of any of the other Financing Agreements shall for any reason cease to be valid, binding and enforceable with respect to any party hereto or thereto (other than Agent) in accordance with its terms, or any such party shall challenge the enforceability hereof or thereof, or shall assert in writing, or take any action or fail to take any action based on the assertion that any provision hereof or of any of the other Financing Agreements has ceased to be or is otherwise not valid, binding or enforceable in accordance with its terms, or any security interest provided for herein or in any of the other Financing Agreements shall cease to be a valid and perfected first priority security interest in any of the Collateral purported to be subject thereto (except as otherwise permitted herein or therein);

(j) an ERISA Event shall occur which results in or could reasonably be expected to result in liability of any Borrower in an aggregate amount in excess of \$500,000;

(k) any Change of Control;

(l) the indictment by any Governmental Authority, or as Agent may in good faith determine, the threatened indictment by any Governmental Authority of any Borrower or Guarantor of which any Borrower, Guarantor or Agent receives notice, in either case, as to which there is a reasonable possibility of an adverse determination, in the good faith determination of Agent under any criminal statute, or commencement or threatened commencement, of criminal or civil proceedings against such Borrower or Guarantor, pursuant to which statute or proceedings the penalties or remedies sought or available include forfeiture of (i) any of the Collateral having a value in excess of \$250,000 or (ii) any other property of any Borrower or Guarantor which is necessary or material to the conduct of its business;

(m) Agent shall not have received on or before February 28, 2007 evidence that either (i) the Indebtedness of Parent under the Merix 6.5% Debenture has been paid in full in cash and Borrowers and Guarantors released from any obligations in respect thereof or (ii) that each of the Persons to whom such Indebtedness is then owing has executed and delivered a valid and enforceable agreement in writing that the Indebtedness owing to it is not due and payable until a date ninety (90) days after the Maturity Date, except that the failure of Agent to receive such evidence on or before February 28, 2007 shall not be an Event of Default if Excess Availability is equal to or greater than \$45,000,000 at all times during the period commencing on February 28, 2007 and ending on the date that Agent has received such evidence (and in the event that Excess Availability shall at any time during such period be less than \$45,000,000, it shall be an Event of Default);

(n) there shall be a change after the date hereof that has a Material Adverse Effect; or

(o) there shall be an event of default under any of the other Financing Agreements.

10.2 Remedies.

(a) At any time an Event of Default exists or has occurred and is continuing, Agent and Lenders shall have all rights and remedies provided in this Agreement, the other Financing Agreements, the UCC and other applicable law, all of which rights and remedies may be exercised without notice to or consent by any Borrower or Guarantor, except as such notice or consent is expressly provided for hereunder or required by applicable law. All rights, remedies and powers granted to Agent and Lenders hereunder, under any of the other Financing Agreements, the UCC or other applicable law, are cumulative, not exclusive and enforceable, in Agent's discretion, alternatively, successively, or concurrently on any one or more occasions, and shall include, without limitation, the right to apply to a court of equity for an injunction to restrain a breach or threatened breach by any Borrower or Guarantor of this Agreement or any of the other Financing Agreements. Subject to Section 12 hereof, Agent may, and at the direction of the Required Lenders shall, at any time or times, proceed directly against any Borrower or Guarantor to collect the Obligations without prior recourse to the Collateral.

(b) Without limiting the generality of the foregoing, at any time an Event of Default exists or has occurred and is continuing, Agent may, at its option and shall upon the direction of the Required Lenders, (i) upon notice to Administrative Borrower, accelerate the payment of all Obligations and demand immediate payment thereof to Agent for itself and the benefit of Lenders (provided, that, upon the occurrence of any Event of Default described in Sections 10.1(g) and 10.1(h), all Obligations shall automatically become immediately due and payable), and (ii) terminate the Commitments whereupon the obligation of each Lender to make any Loan and Issuing Bank to issue any Letter of Credit shall immediately terminate (provided, that, upon the occurrence of any Event of Default described in Sections 10.1(g) and 10.1(h), the Commitments and any other obligation of the Agent or a Lender hereunder shall automatically terminate).

(c) Without limiting the foregoing, at any time an Event of Default exists or has occurred and is continuing, Agent may, in its discretion (i) with or without judicial process or the aid or assistance of others, enter upon any premises on or in which any of the Collateral may be located and take possession of the Collateral or complete processing, manufacturing and repair of all or any portion of the Collateral, (ii) require any Borrower or Guarantor, at Borrowers' expense, to assemble and make available to Agent any part or all of the Collateral at any place and time designated by Agent, (iii) collect, foreclose, receive, appropriate, setoff and realize upon any and all Collateral, (iv) remove any or all of the Collateral from any premises on or in which the same may be located for the purpose of effecting the sale, foreclosure or other disposition thereof or for any other purpose, (v) sell, lease, transfer, assign, deliver or otherwise dispose of any and all Collateral (including entering into contracts with respect thereto, public or

private sales at any exchange, broker's board, at any office of Agent or elsewhere) at such prices or terms as Agent may deem reasonable, for cash, upon credit or for future delivery, with the Agent having the right to purchase the whole or any part of the Collateral at any such public sale, all of the foregoing being free from any right or equity of redemption of any Borrower or Guarantor, which right or equity of redemption is hereby expressly waived and released by Borrowers and Guarantors and/or (vi) terminate this Agreement. If any of the Collateral is sold or leased by Agent upon credit terms or for future delivery, the Obligations shall not be reduced as a result thereof until payment therefor is finally collected by Agent. If notice of disposition of Collateral is required by law, ten (10) days prior notice by Agent to Administrative Borrower designating the time and place of any public sale or the time after which any private sale or other intended disposition of Collateral is to be made, shall be deemed to be reasonable notice thereof and Borrowers and Guarantors waive any other notice. In the event Agent institutes an action to recover any Collateral or seeks recovery of any Collateral by way of prejudgment remedy, each Borrower and Guarantor waives the posting of any bond which might otherwise be required. At any time an Event of Default exists or has occurred and is continuing, upon Agent's request, Borrowers will either, as Agent shall specify, furnish cash collateral to Issuing Bank to be used to secure and fund the reimbursement obligations to Issuing Bank in connection with any Letter of Credit Obligations or furnish cash collateral to Agent for the Letter of Credit Obligations. Such cash collateral shall be in the amount equal to one hundred five (105%) percent of the amount of the Letter of Credit Obligations plus the amount of any fees and expenses payable in connection therewith through the end of the latest expiration date of the Letters of Credit giving rise to such Letter of Credit Obligations.

(d) At any time or times that an Event of Default exists or has occurred and is continuing, Agent may, in its discretion, enforce the rights of any Borrower or Guarantor against any account debtor, secondary obligor or other obligor in respect of any of the Accounts or other Receivables. Without limiting the generality of the foregoing, Agent may, in its discretion, at such time or times (i) notify any or all account debtors, secondary obligors or other obligors in respect thereof that the Receivables have been assigned to Agent and that Agent has a security interest therein and Agent may direct any or all account debtors, secondary obligors and other obligors to make payment of Receivables directly to Agent, (ii) extend the time of payment of, compromise, settle or adjust for cash, credit, return of merchandise or otherwise, and upon any terms or conditions, any and all Receivables or other obligations included in the Collateral and thereby discharge or release the account debtor or any secondary obligors or other obligors in respect thereof without affecting any of the Obligations, (iii) demand, collect or enforce payment of any Receivables or such other obligations, but without any duty to do so, and Agent and Lenders shall not be liable for any failure to collect or enforce the payment thereof nor for the negligence of its agents or attorneys with respect thereto and (iv) take whatever other action Agent may deem necessary or desirable for the protection of its interests and the interests of Lenders. At any time that an Event of Default exists or has occurred and is continuing, at Agent's request, all invoices and statements sent to any account debtor shall state that the Accounts and such other obligations have been assigned to Agent and are payable directly and only to Agent and Borrowers and Guarantors shall deliver to Agent such originals of documents evidencing the sale and delivery of goods or the performance of services giving rise to any Accounts as Agent may require. In the event any account debtor returns Inventory when an Event of Default exists or has occurred and is continuing, Borrowers shall, upon Agent's request, hold the returned Inventory in trust for Agent, segregate all returned Inventory from all of its

other property, dispose of the returned Inventory solely according to Agent's instructions, and not issue any credits, discounts or allowances with respect thereto without Agent's prior written consent.

(e) To the extent that applicable law imposes duties on Agent or any Lender to exercise remedies in a commercially reasonable manner (which duties cannot be waived under such law), each Borrower and Guarantor acknowledges and agrees that it is not commercially unreasonable for Agent or any Lender (i) to fail to incur expenses reasonably deemed significant by Agent or any Lender to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (ii) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain consents of any Governmental Authority or other third party for the collection or disposition of Collateral to be collected or disposed of, (iii) to fail to exercise collection remedies against account debtors, secondary obligors or other persons obligated on Collateral or to remove liens or encumbrances on or any adverse claims against Collateral, (iv) to exercise collection remedies against account debtors and other persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (v) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (vi) to contact other persons, whether or not in the same business as any Borrower or Guarantor, for expressions of interest in acquiring all or any portion of the Collateral, (vii) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the collateral is of a specialized nature, (viii) to dispose of Collateral by utilizing Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets, (ix) to dispose of assets in wholesale rather than retail markets, (x) to disclaim disposition warranties, (xi) to purchase insurance or credit enhancements to insure Agent or Lenders against risks of loss, collection or disposition of Collateral or to provide to Agent or Lenders a guaranteed return from the collection or disposition of Collateral, or (xii) to the extent deemed appropriate by Agent, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist Agent in the collection or disposition of any of the Collateral. Each Borrower and Guarantor acknowledges that the purpose of this Section is to provide non-exhaustive indications of what actions or omissions by Agent or any Lender would not be commercially unreasonable in the exercise by Agent or any Lender of remedies against the Collateral and that other actions or omissions by Agent or any Lender shall not be deemed commercially unreasonable solely on account of not being indicated in this Section. Without limitation of the foregoing, nothing contained in this Section shall be construed to grant any rights to any Borrower or Guarantor or to impose any duties on Agent or Lenders that would not have been granted or imposed by this Agreement or by applicable law in the absence of this Section.

(f) For the purpose of enabling Agent to exercise the rights and remedies hereunder, each Borrower and Guarantor hereby grants to Agent, to the extent assignable, an irrevocable, non-exclusive license (exercisable at any time an Event of Default shall exist or have occurred and for so long as the same is continuing) without payment of royalty or other compensation to any Borrower or Guarantor, to use, assign, license or sublicense any of the trademarks, service-marks, trade names, business names, trade styles, designs, logos and other source of business identifiers and other Intellectual Property and general intangibles now owned or hereafter

acquired by any Borrower or Guarantor, wherever the same maybe located, including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof.

(g) At any time an Event of Default exists or has occurred and is continuing, Agent shall apply the cash proceeds of Collateral actually received by Agent from any sale, lease, foreclosure or other disposition of the Collateral to payment of the Obligations, in whole or in part and in accordance with the terms hereof, whether or not then due and thereafter hold such proceeds as cash collateral in connection with any contingent Obligations, including issued and outstanding Letter of Credit Obligations and checks or other payments provisionally credited to the Obligations and/or as to which Agent or any Lender has not yet received final and indefeasible payment (and including any contingent liability of Agent to any bank at which deposit accounts of Borrowers and Guarantors are maintained under any Deposit Account Control Agreement) and for any of the Obligations arising under or in connection with any Bank Products. Borrowers and Guarantors shall remain liable to Agent and Lenders for the payment of any deficiency with interest at the highest rate provided for herein and all costs and expenses of collection or enforcement, including reasonable attorneys' fees and expenses.

(h) Without limiting the foregoing, upon the occurrence of a Default or an Event of Default and for so long as the same is continuing, (i) Agent and Lenders may, at Agent' s option, and upon the occurrence of an Event of Default at the direction of the Required Lenders, Agent and Lenders shall, without notice, (A) cease making Loans or arranging for Letters of Credit or reduce the lending formulas or amounts of Loans and Letters of Credit available to Borrowers and/or (B) terminate any provision of this Agreement providing for any future Loans to be made by Agent and Lenders or Letters of Credit to be issued by Issuing Bank and (ii) Agent may, at its option, establish such Reserves as Agent determines, without limitation or restriction, notwithstanding anything to the contrary contained herein.

SECTION 11. JURY TRIAL WAIVER; OTHER WAIVERS AND CONSENTS; GOVERNING LAW

11.1 Governing Law; Choice of Forum; Service of Process; Jury Trial Waiver.

(a) The validity, interpretation and enforcement of this Agreement and the other Financing Agreements (except as otherwise provided therein) and any dispute arising out of the relationship between the parties hereto, whether in contract, tort, equity or otherwise, shall be governed by the internal laws of the State of New York but excluding any principles of conflicts of law or other rule of law that would cause the application of the law of any jurisdiction other than the laws of the State of New York.

(b) Borrowers, Guarantors, Agent, Lenders and Issuing Bank irrevocably consent and submit to the non-exclusive jurisdiction of the Supreme Court of the State of New York for the County of New York and the United States District Court for the Southern District of New York, whichever Agent may elect, and waive any objection based on venue or forum non conveniens with respect to any action instituted therein arising under this Agreement or any of the other Financing Agreements or in any way connected with or related or incidental to the dealings of the parties hereto in respect of this Agreement or any of the other Financing

Agreements or the transactions related hereto or thereto, in each case whether now existing or hereafter arising, and whether in contract, tort, equity or otherwise, and agree that any dispute with respect to any such matters shall be heard only in the courts described above (except that Agent and Lenders shall have the right to bring any action or proceeding against any Borrower or Guarantor or its or their property in the courts of any other jurisdiction which Agent deems necessary or appropriate in order to realize on the Collateral or to otherwise enforce its rights against any Borrower or Guarantor or its or their property).

(c) Each Borrower and Guarantor hereby waives personal service of any and all process upon it and consents that all such service of process may be made by certified mail (return receipt requested) directed to its address set forth herein and service so made shall be deemed to be completed five (5) days after the same shall have been so deposited in the U.S. mails, or, at Agent's option, by service upon any Borrower or Guarantor (or Administrative Borrower on behalf of such Borrower or Guarantor) in any other manner provided under the rules of any such courts. Within sixty (60) days after such service, such Borrower or Guarantor shall appear in answer to such process, failing which such Borrower or Guarantor shall be deemed in default and judgment may be entered by Agent against such Borrower or Guarantor for the amount of the claim and other relief requested.

(d) BORROWERS, GUARANTORS, AGENT, LENDERS AND ISSUING BANK EACH HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR ANY OF THE OTHER FINANCING AGREEMENTS OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO IN RESPECT OF THIS AGREEMENT OR ANY OF THE OTHER FINANCING AGREEMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. BORROWERS, GUARANTORS, AGENT, LENDERS AND ISSUING BANK EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY BORROWER, ANY GUARANTOR, AGENT, ANY LENDER OR ISSUING BANK MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

(e) Agent and Secured Parties shall not have any liability to any Borrower or Guarantor (whether in tort, contract, equity or otherwise) for losses suffered by such Borrower or Guarantor in connection with, arising out of, or in any way related to the transactions or relationships contemplated by this Agreement, or any act, omission or event occurring in connection herewith, unless it is determined by a final and non-appealable judgment or court order binding on Agent, such Lender and Issuing Bank, that the losses were the result of acts or omissions constituting gross negligence or willful misconduct. In any such litigation, Agent, Lenders and Issuing Bank shall be entitled to the benefit of the rebuttable presumption that it acted in good faith and with the exercise of ordinary care in the performance by it of the terms of this Agreement. Each Borrower and Guarantor: (i) certifies that neither Agent, any Lender, Issuing Bank nor any representative, agent or attorney acting for or on behalf of Agent, any

Lender or Issuing Bank has represented, expressly or otherwise, that Agent, Lenders and Issuing Bank would not, in the event of litigation, seek to enforce any of the waivers provided for in this Agreement or any of the other Financing Agreements and (ii) acknowledges that in entering into this Agreement and the other Financing Agreements, Agent, Lenders and Issuing Bank are relying upon, among other things, the waivers and certifications set forth in this Section 11.1 and elsewhere herein and therein.

(f) 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 the Loan Agreement or any other Financing Agreement, (i) the court shall, and is hereby directed to, make a general reference pursuant to California Code of Civil Procedure Section 638 to a referee or referees 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 Agent, 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 (ii) Borrowers shall be solely responsible to pay all fees and expenses of any referee appointed in such action or proceeding.

11.2 Waiver of Notices. Each Borrower and Guarantor hereby expressly waives demand, presentment, protest and notice of protest and notice of dishonor with respect to any and all instruments and chattel paper, included in or evidencing any of the Obligations or the Collateral, and any and all other demands and notices of any kind or nature whatsoever with respect to the Obligations, the Collateral and this Agreement, except such as are expressly provided for herein. No notice to or demand on any Borrower or Guarantor which Agent or any Lender may elect to give shall entitle such Borrower or Guarantor to any other or further notice or demand in the same, similar or other circumstances.

11.3 Amendments and Waivers.

(a) Neither this Agreement nor any other Financing Agreement nor any terms hereof or thereof may be amended, waived, discharged or terminated unless such amendment, waiver, discharge or termination is in writing signed by Agent and the Required Lenders (or as to the signatures of Required Lenders, Agent may, at Agent's option, instead of obtaining separate signatures of such Lenders, sign on behalf of any such Lender with the authorization or consent of such Lender), and as to amendments to any of the Financing Agreements (other than with respect to any provision of Section 12 hereof), by Administrative Borrower and such amendment, waiver, discharge or termination shall be effective and binding as to all Lenders and Issuing Bank only in the specific instance and for the specific purpose for which given; except, that, no such amendment, waiver, discharge or termination shall:

(i) reduce the interest rate or any fees or extend the time of payment of principal, interest or any fees or reduce the principal amount of any Loan or Letters of Credit, in each case without the consent of each Lender directly affected thereby,

(ii) increase the Maximum Credit or Revolving Loan Limit, without the consent of Agent and all of Lenders,

(iii) release any Collateral (except as expressly required hereunder or under any of the other Financing Agreements or applicable law and except as permitted under Section 12.11(b) hereof), or release any guarantee of the Obligations, in each case without the consent of Agent and all of Lenders,

(iv) reduce any percentage specified in the definition of Required Lenders, without the consent of Agent and all of Lenders,

(v) consent to the assignment or transfer by any Borrower or Guarantor of any of their rights and obligations under this Agreement, without the consent of Agent and all of Lenders,

(vi) amend, modify or waive any terms of this Section 11.3 hereof, without the consent of Agent and all of Lenders, or

(vii) amend the definitions of Borrowing Base, Eligible Accounts, Eligible Finished Goods Inventory, Eligible Gold Raw Material Inventory or Eligible Inventory, in each case, only if the effect of such amendment is to increase the amount of the Borrowing Base, or increase the Inventory Loan Limit or the Letter of Credit Limit, or amend the definition of Cash Dominion Event, in each case, without the consent of Agent and all of Lenders.

(b) Agent, Lenders and Issuing Bank shall not, by any act, delay, omission or otherwise be deemed to have expressly or impliedly waived any of its or their rights, powers and/or remedies unless such waiver shall be in writing and signed as provided herein. Any such waiver shall be enforceable only to the extent specifically set forth therein. A waiver by Agent, any Lender or Issuing Bank of any right, power and/or remedy on any one occasion shall not be construed as a bar to or waiver of any such right, power and/or remedy which Agent, any Lender or Issuing Bank would otherwise have on any future occasion, whether similar in kind or otherwise.

(c) Notwithstanding anything to the contrary contained in Section 11.3(a) above, in connection with any amendment, waiver, discharge or termination, in the event that any Lender whose consent thereto is required shall fail to consent or fail to consent in a timely manner (such Lender being referred to herein as a "Non-Consenting Lender"), but the consent of any other Lenders to such amendment, waiver, discharge or termination that is required are obtained, if any, then Wachovia shall have the right, but not the obligation, at any time thereafter, and upon the exercise by Wachovia of such right, such Non-Consenting Lender shall have the obligation, to sell, assign and transfer to Wachovia or such Eligible Transferee as Wachovia may specify, the Commitment of such Non-Consenting Lender and all rights and interests of such Non-Consenting Lender pursuant thereto. Wachovia shall provide the Non-Consenting Lender with prior written notice of its intent to exercise its right under this Section, which notice shall be delivered within ninety (90) days after the date of the failure to consent and shall specify the date on which such purchase and sale shall occur (which date shall be not more than thirty (30) days thereafter). Such purchase and sale shall be pursuant to the terms of an Assignment and Acceptance (whether or not executed by the Non-Consenting Lender), except that on the date of such purchase and sale, Wachovia, or such Eligible Transferee specified by Wachovia, shall pay to the Non-Consenting Lender (except as Wachovia and such Non-Consenting Lender may

otherwise agree) the amount equal to: (i) the principal balance of the Loans held by the Non-Consenting Lender outstanding as of the close of business on the business day immediately preceding the effective date of such purchase and sale, plus (ii) amounts accrued and unpaid in respect of interest and fees payable to the Non-Consenting Lender to the effective date of the purchase (but in no event shall the Non-Consenting Lender be deemed entitled to any early termination fee). Such purchase and sale shall be effective on the date of the payment of such amount to the Non-Consenting Lender and the Commitment of the Non-Consenting Lender shall terminate on such date.

(d) The consent of Agent shall be required for any amendment, waiver or consent affecting the rights or duties of Agent hereunder or under any of the other Financing Agreements, in addition to the consent of the Lenders otherwise required by this Section and the exercise by Agent of any of its rights hereunder with respect to Reserves or Eligible Accounts or Eligible Inventory shall not be deemed an amendment to the advance rates provided for in this Section 11.3. The consent of Issuing Bank shall be required for any amendment, waiver or consent affecting the rights or duties of Issuing Bank hereunder or under any of the other Financing Agreements, in addition to the consent of the Lenders otherwise required by this Section, provided, that, the consent of Issuing Bank shall not be required for any other amendments, waivers or consents. Notwithstanding anything to the contrary contained in Section 11.3(a) above, (i) in the event that Agent shall agree that any items otherwise required to be delivered to Agent as a condition of the initial Loans and Letters of Credit hereunder may be delivered after the date hereof, Agent may, in its discretion, agree to extend the date for delivery of such items or take such other action as Agent may deem appropriate as a result of the failure to receive such items as Agent may determine or may waive any Event of Default as a result of the failure to receive such items, in each case without the consent of any Lender and (ii) Agent may consent to any change in the type of organization, jurisdiction of organization or other legal structure of any Borrower, Guarantor or any of their Subsidiaries and amend the terms hereof or of any of the other Financing Agreements as may be necessary or desirable to reflect any such change, in each case without the approval of any Lender.

(e) The consent of Agent and any Bank Product Provider that is providing Bank Products and has outstanding any such Bank Products at such time that are secured hereunder shall be required for any amendment to the priority of payment of Obligations arising under or pursuant to any Hedge Agreements of a Borrower or Guarantor or other Bank Products as set forth in Section 6.4(a) hereof. In no event shall the consent or approval of any Bank Product Provider be required for any other amendment or waiver and any such other amendment or waiver entered into in accordance with Section 11.3(a) shall be binding upon all of the Secured Parties.

11.4 Waiver of Counterclaims. Each Borrower and Guarantor waives all rights to interpose any claims, deductions, setoffs or counterclaims of any nature (other than compulsory counterclaims) in any action or proceeding with respect to this Agreement, the Obligations, the Collateral or any matter arising therefrom or relating hereto or thereto.

11.5 Indemnification. Each Borrower and Guarantor shall, jointly and severally, indemnify and hold Agent, each Lender and Issuing Bank, and their respective officers, directors, agents, employees, advisors and counsel and their respective Affiliates (each such

person being an “Indemnitee”), harmless from and against any and all losses, claims, damages, liabilities, costs or expenses (including attorneys’ fees and expenses) imposed on, incurred by or asserted against any of them in connection with any litigation, investigation, claim or proceeding commenced or threatened related to the negotiation, preparation, execution, delivery, enforcement, performance or administration of this Agreement, any other Financing Agreements, or any undertaking or proceeding related to any of the transactions contemplated hereby or any act, omission, event or transaction related or attendant thereto, including amounts paid in settlement, court costs, and the fees and expenses of counsel except that Borrowers and Guarantors shall not have any obligation under this Section 11.5 to indemnify an Indemnitee with respect to a matter covered hereby resulting from the gross negligence or wilful misconduct of such Indemnitee as determined pursuant to a final, non-appealable order of a court of competent jurisdiction (but without limiting the obligations of Borrowers or Guarantors as to any other Indemnitee). To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section may be unenforceable because it violates any law or public policy, Borrowers and Guarantors shall pay the maximum portion which it is permitted to pay under applicable law to Agent and Lenders in satisfaction of indemnified matters under this Section. To the extent permitted by applicable law, no Borrower or Guarantor shall assert, and each Borrower and Guarantor hereby waives, 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 of the other Financing Agreements or any undertaking or transaction contemplated hereby. No Indemnitee referred to above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or any of the other Financing Agreements or the transaction contemplated hereby or thereby. All amounts due under this Section shall be payable upon demand. The foregoing indemnity shall survive the payment of the Obligations and the termination or non-renewal of this Agreement.

SECTION 12. THE AGENT

12.1 Appointment, Powers and Immunities. Each Secured Party irrevocably designates, appoints and authorizes Wachovia to act as Agent hereunder and under the other Financing Agreements with such powers as are specifically delegated to Agent by the terms of this Agreement and of the other Financing Agreements, together with such other powers as are reasonably incidental thereto. Agent (a) shall have no duties or responsibilities except those expressly set forth in this Agreement and in the other Financing Agreements, and shall not by reason of this Agreement or any other Financing Agreement be a trustee or fiduciary for any Secured Party; (b) shall not be responsible to Secured Parties for any recitals, statements, representations or warranties contained in this Agreement or in any of the other Financing Agreements, or in any certificate or other document referred to or provided for in, or received by any of them under, this Agreement or any other Financing Agreement, or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Financing Agreement or any other document referred to or provided for herein or therein or for any failure by any Borrower or any Guarantor or any other Person to perform any of its obligations hereunder or thereunder; and (c) shall not be responsible to Secured Parties for any action taken or omitted to be taken by it hereunder or under any other Financing Agreement or under any other document or instrument referred to or provided for herein or therein or in

connection herewith or therewith, except for its own gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. Agent may employ agents and attorneys in fact and shall not be responsible for the negligence or misconduct of any such agents or attorneys in fact selected by it in good faith. Agent may deem and treat the payee of any note as the holder thereof for all purposes hereof unless and until the assignment thereof pursuant to an agreement (if and to the extent permitted herein) in form and substance satisfactory to Agent shall have been delivered to and acknowledged by Agent.

12.2 Reliance by Agent. Agent shall be entitled to rely upon any certification, notice or other communication (including any thereof by telephone, teletype, telex, telegram or cable) believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by Agent. As to any matters not expressly provided for by this Agreement or any other Financing Agreement, Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder or thereunder in accordance with instructions given by the Required Lenders or all of Lenders as is required in such circumstance, and such instructions of such Agents and any action taken or failure to act pursuant thereto shall be binding on all Lenders.

12.3 Events of Default.

(a) Agent shall not be deemed to have knowledge or notice of the occurrence of a Default or an Event of Default or other failure of a condition precedent to the Loans and Letters of Credit hereunder, unless and until Agent has received written notice from a Lender, or Borrower specifying such Event of Default or any unfulfilled condition precedent, and stating that such notice is a "Notice of Default or Failure of Condition". In the event that Agent receives such a Notice of Default or Failure of Condition, Agent shall give prompt notice thereof to the Lenders. Agent shall (subject to Section 12.7) take such action with respect to any such Event of Default or failure of condition precedent as shall be directed by the Required Lenders to the extent provided for herein; provided, that, unless and until Agent shall have received such directions, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to or by reason of such Event of Default or failure of condition precedent, as it shall deem advisable in the best interest of Lenders. Without limiting the foregoing, and notwithstanding the existence or occurrence and continuance of an Event of Default or any other failure to satisfy any of the conditions precedent set forth in Section 4 of this Agreement to the contrary, unless and until otherwise directed by the Required Lenders, Agent may, but shall have no obligation to, continue to make Loans and Issuing Bank may, but shall have no obligation to, issue or cause to be issued any Letter of Credit for the ratable account and risk of Lenders from time to time if Agent believes making such Loans or issuing or causing to be issued such Letter of Credit is in the best interests of Lenders.

(b) Except with the prior written consent of Agent, no Secured Party may assert or exercise any enforcement right or remedy in respect of the Loans, Letter of Credit Obligations or other Obligations, as against any Borrower or Guarantor or any of the Collateral or other property of any Borrower or Guarantor.

12.4 Wachovia in its Individual Capacity. With respect to its Commitment and the Loans made and Letters of Credit issued or caused to be issued by it (and any successor acting as Agent), so long as Wachovia shall be a Lender hereunder, it shall have the same rights and powers hereunder as any other Lender and may exercise the same as though it were not acting as Agent, and the term “Lender” or “Lenders” shall, unless the context otherwise indicates, include Wachovia in its individual capacity as Lender hereunder. Wachovia (and any successor acting as Agent) and its Affiliates may (without having to account therefor to any Lender) lend money to, make investments in and generally engage in any kind of business with Borrowers (and any of its Subsidiaries or Affiliates) as if it were not acting as Agent, and Wachovia and its Affiliates may accept fees and other consideration from any Borrower or Guarantor and any of its Subsidiaries and Affiliates for services in connection with this Agreement or otherwise without having to account for the same to Lenders.

12.5 Indemnification. Lenders agree to indemnify Agent and Issuing Bank (to the extent not reimbursed by Borrowers hereunder and without limiting any obligations of Borrowers hereunder) ratably, in accordance with their Pro Rata Shares, for any and all claims of any kind and nature whatsoever that may be imposed on, incurred by or asserted against Agent (including by any Lender) arising out of or by reason of any investigation in or in any way relating to or arising out of this Agreement or any other Financing Agreement or any other documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby (including the costs and expenses that Agent is obligated to pay hereunder) or the enforcement of any of the terms hereof or thereof or of any such other documents, provided, that, no Lender shall be liable for any of the foregoing to the extent it arises from the gross negligence or willful misconduct of the party to be indemnified as determined by a final non-appealable judgment of a court of competent jurisdiction. The foregoing indemnity shall survive the payment of the Obligations and the termination or non-renewal of this Agreement.

12.6 Non-Reliance on Agent and Other Lenders. Each Secured Party agrees that it has, independently and without reliance on Agent or any other Secured Party, and based on such documents and information as it has deemed appropriate, made its own credit analysis of Borrowers and Guarantors and has made its own decision to enter into this Agreement and that it will, independently and without reliance upon Agent or any other Secured Party, and based on such documents and information as it shall deem appropriate at the time, continue to make its own analysis and decisions in taking or not taking action under this Agreement or any of the other Financing Agreements. Agent shall not be required to keep itself informed as to the performance or observance by any Borrower or Guarantor of any term or provision of this Agreement or any of the other Financing Agreements or any other document referred to or provided for herein or therein or to inspect the properties or books of any Borrower or Guarantor. Agent will use reasonable efforts to provide Lenders with any information received by Agent from any Borrower or Guarantor which is required to be provided to Lenders or deemed to be requested by Lenders hereunder and with a copy of any Notice of Default or Failure of Condition received by Agent from any Borrower or any Lender; provided, that, Agent shall not be liable to any Lender for any failure to do so, except to the extent that such failure is attributable to Agent’s own gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. Except for notices, reports and other documents expressly required to be furnished to Lenders by Agent or deemed requested by Lenders hereunder, Agent shall not have any duty or responsibility to provide any Lender with any other credit or other information concerning the affairs, financial condition or business of any Borrower or Guarantor that may come into the possession of Agent.

12.7 Failure to Act. Except for action expressly required of Agent hereunder and under the other Financing Agreements, Agent shall in all cases be fully justified in failing or refusing to act hereunder and thereunder unless it shall receive further assurances to its satisfaction from Lenders of their indemnification obligations under Section 12.5 hereof against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action.

12.8 Additional Loans. Agent shall not make any Revolving Loans or Issuing Bank provide any Letter of Credit to any Borrower on behalf of Lenders intentionally and with actual knowledge that such Revolving Loans or Letter of Credit would cause the aggregate amount of the total outstanding Revolving Loans and Letters of Credit to such Borrower to exceed the Borrowing Base of such Borrower, without the prior consent of all Lenders, except, that, Agent may make such additional Revolving Loans or Issuing Bank may provide such additional Letter of Credit on behalf of Lenders, intentionally and with actual knowledge that such Revolving Loans or Letter of Credit will cause the total outstanding Revolving Loans and Letters of Credit to such Borrower to exceed the Borrowing Base of such Borrower, as Agent may deem necessary or advisable in its discretion, provided, that: (a) the total principal amount of the additional Revolving Loans or additional Letters of Credit to any Borrower which Agent may make or provide after obtaining such actual knowledge that the aggregate principal amount of the Revolving Loans equal or exceed the Borrowing Bases of Borrowers, plus the amount of Special Agent Advances made pursuant to Section 12.11(a)(ii) hereof then outstanding, shall not exceed the aggregate amount equal to ten (10%) of the Revolving Loan Limit and shall not cause the total principal amount of the Loans and Letters of Credit to exceed the Maximum Credit and (b) no such additional Revolving Loan or Letter of Credit shall be outstanding more than ninety (90) days after the date such additional Revolving Loan or Letter of Credit is made or issued (as the case may be), except as the Required Lenders may otherwise agree. Each Lender shall be obligated to pay Agent the amount of its Pro Rata Share of any such additional Revolving Loans or Letters of Credit.

12.9 Concerning the Collateral and the Related Financing Agreements. Each Secured Party authorizes and directs Agent to enter into this Agreement and the other Financing Agreements. Each Secured Party agrees that any action taken by Agent or Required Lenders in accordance with the terms of this Agreement or the other Financing Agreements and the exercise by Agent or Required Lenders of their respective powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Secured Parties.

12.10 Field Audit, Examination Reports and other Information; Disclaimer by Lenders. By signing this Agreement, each Lender:

(a) is deemed to have requested that Agent furnish such Lender, promptly after it becomes available, a copy of each field audit or examination report and report with respect to the Borrowing Base prepared or received by Agent (each field audit or examination report and report with respect to the Borrowing Base being referred to herein as a "Report" and collectively, "Reports"), appraisals with respect to the Collateral and financial statements with respect to Parent and its Subsidiaries received by Agent;

(b) expressly agrees and acknowledges that Agent (i) does not make any representation or warranty as to the accuracy of any Report, appraisal or financial statement or (ii) shall not be liable for any information contained in any Report, appraisal or financial statement;

(c) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that Agent or any other party performing any audit or examination will inspect only specific information regarding Borrowers and Guarantors and will rely significantly upon Borrowers' and Guarantors' books and records, as well as on representations of Borrowers' and Guarantors' personnel; and

(d) agrees to keep all Reports confidential and strictly for its internal use in accordance with the terms of Section 13.5 hereof, and not to distribute or use any Report in any other manner.

12.11 Collateral Matters.

(a) Agent may, at its option, from time to time, at any time on or after an Event of Default and for so long as the same is continuing or upon any other failure of a condition precedent to the Loans and Letters of Credit hereunder, make such disbursements and advances ("Special Agent Advances") which Agent, in its sole discretion, (i) deems necessary or desirable either to preserve or protect the Collateral or any portion thereof or (ii) to enhance the likelihood or maximize the amount of repayment by Borrowers and Guarantors of the Loans and other Obligations, provided, that, (A) the aggregate principal amount of the Special Agent Advances pursuant to this clause (ii) outstanding at any time, plus the then outstanding principal amount of the additional Loans and Letters of Credit which Agent may make or provide as set forth in Section 12.8 hereof, shall not exceed the amount equal to ten (10%) percent of the Revolving Loan Limit and (B) the aggregate principal amount of the Special Agent Advances pursuant to this clause (ii) outstanding at any time, plus the then outstanding principal amount of the Loans, shall not exceed the Maximum Credit, except at Agent's option, provided, that, to the extent that the aggregate principal amount of Special Agent Advances plus the then outstanding principal amount of the Loans exceed the Maximum Credit the Special Agent Advances that are in excess of the Maximum Credit shall be for the sole account and risk of Agent and notwithstanding anything to the contrary set forth below, no Lender shall have any obligation to provide its share of such Special Agent Advances in excess of the Maximum Credit, or (iii) to pay any other amount chargeable to any Borrower or Guarantor pursuant to the terms of this Agreement or any of the other Financing Agreements consisting of (A) costs, fees and expenses and (B) payments to Issuing Bank in respect of any Letter of Credit Obligations. The Special Agent Advances shall be repayable on demand and together with all interest thereon shall constitute Obligations secured by the Collateral. Special Agent Advances shall not constitute Loans but shall otherwise constitute Obligations hereunder. Interest on Special Agent Advances shall be payable at the Interest Rate then applicable to Prime Rate Loans and shall be payable on demand. Without limitation of its obligations pursuant to Section 6.11, each Lender agrees that it shall make available to Agent, upon Agent's demand, in immediately available funds, the amount equal to

such Lender's Pro Rata Share of each such Special Agent Advance. If such funds are not made available to Agent by such Lender, such Lender shall be deemed a Defaulting Lender and Agent shall be entitled to recover such funds, on demand from such Lender together with interest thereon for each day from the date such payment was due until the date such amount is paid to Agent at the Federal Funds Rate for each day during such period (as published by the Federal Reserve Bank of New York or at Agent's option based on the arithmetic mean determined by Agent of the rates for the last transaction in overnight Federal funds arranged prior to 9:00 a.m. (New York City time) on that day by each of the three leading brokers of Federal funds transactions in New York City selected by Agent) and if such amounts are not paid within three (3) days of Agent's demand, at the highest Interest Rate provided for in Section 3.1 hereof applicable to Prime Rate Loans.

(b) Lenders hereby irrevocably authorize Agent, at its option and in its discretion to release any security interest in, mortgage or lien upon, any of the Collateral (i) upon termination of the Commitments and payment and satisfaction of all of the Obligations and delivery of cash collateral to the extent required under Section 13.1 below, or (ii) constituting property being sold or disposed of if Administrative Borrower or any Borrower or Guarantor certifies to Agent that the sale or disposition is made in compliance with Section 9.7 hereof (and Agent may rely conclusively on any such certificate, without further inquiry), or (iii) constituting property in which any Borrower or Guarantor did not own an interest at the time the security interest, mortgage or lien was granted or at any time thereafter, or (iv) having a value in the aggregate in any twelve (12) month period of less than \$4,000,000, and to the extent Agent may release its security interest in and lien upon any such Collateral pursuant to the sale or other disposition thereof, such sale or other disposition shall be deemed consented to by Lenders and any proceeds from such sale or other disposition shall be applied to the Obligations, or (v) if required or permitted under the terms of any of the other Financing Agreements, including any intercreditor agreement, or (vi) approved, authorized or ratified in writing by all of Lenders. Except as provided above, Agent will not release any security interest in, mortgage or lien upon, any of the Collateral without the prior written authorization of all of Lenders. Upon request by Agent at any time, Lenders will promptly confirm in writing Agent's authority to release particular types or items of Collateral pursuant to this Section. Nothing contained herein shall be construed to require the consent of any Bank Product Provider to any release of any Collateral or termination of security interests in any Collateral.

(c) Without any manner limiting Agent's authority to act without any specific or further authorization or consent by the Required Lenders, each Lender agrees to confirm in writing, upon request by Agent, the authority to release Collateral conferred upon Agent under this Section. Agent shall (and is hereby irrevocably authorized by Lenders to) execute such documents as may be necessary to evidence the release of the security interest, mortgage or liens granted to Agent upon any Collateral to the extent set forth above; provided, that, (i) Agent shall not be required to execute any such document on terms which, in Agent's opinion, would expose Agent to liability or create any obligations or entail any consequence other than the release of such security interest, mortgage or liens without recourse or warranty and (ii) such release shall not in any manner discharge, affect or impair the Obligations or any security interest, mortgage or lien upon (or obligations of any Borrower or Guarantor in respect of) the Collateral retained by such Borrower or Guarantor.

(d) Agent shall have no obligation whatsoever to any Secured Party or any other Person to investigate, confirm or assure that the Collateral exists or is owned by any Borrower or Guarantor or is cared for, protected or insured or has been encumbered, or that any particular items of Collateral meet the eligibility criteria applicable in respect of the Loans or Letters of Credit hereunder, or whether any particular reserves are appropriate, or that the liens and security interests granted to Agent pursuant hereto or any of the Financing Agreements or otherwise have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to Agent in this Agreement or in any of the other Financing Agreements, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, subject to the other terms and conditions contained herein, Agent may act in any manner it may deem appropriate, in its discretion, given Agent's own interest in the Collateral as a Lender and that Agent shall have no duty or liability whatsoever to any other Secured Party.

12.12 Agency for Perfection. Each Secured Party hereby appoints Agent and each other Secured Party as agent and bailee for the purpose of perfecting the security interests in and liens upon the Collateral of Agent in assets which, in accordance with Article 9 of the UCC can be perfected only by possession (or where the security interest of a secured party with possession has priority over the security interest of another secured party) and Agent and each Secured Party hereby acknowledges that it holds possession of any such Collateral for the benefit of Agent as secured party. Should any Secured Party obtain possession of any such Collateral, such Secured Party shall notify Agent thereof, and, promptly upon Agent's request therefor shall deliver such Collateral to Agent or in accordance with Agent's instructions.

12.13 Successor Agent. Agent may resign as Agent upon thirty (30) days' notice to Lenders and Parent. If Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for Lenders. If no successor agent is appointed prior to the effective date of the resignation of Agent, Agent may appoint, after consulting with Lenders and Parent, a successor agent from among Lenders. Upon the acceptance by the Lender so selected of its appointment as successor agent hereunder, such successor agent shall succeed to all of the rights, powers and duties of the retiring Agent and the term "Agent" as used herein and in the other Financing Agreements shall mean such successor agent and the retiring Agent's appointment, powers and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Section 12 shall inure to its benefit as to any actions taken or omitted by it while it was Agent under this Agreement. If no successor agent has accepted appointment as Agent by the date which is thirty (30) days after the date of a retiring Agent's notice of resignation, the retiring Agent's resignation shall nonetheless thereupon become effective and Lenders shall perform all of the duties of Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above.

12.14 Other Agent Designations. Agent may at any time and from time to time determine that a Lender may, in addition, be a "Co-Agent", "Documentation Agent" or similar designation hereunder and enter into an agreement with such Lender to have it so identified for purposes of this Agreement. Any such designation shall be effective upon written notice by Agent to Administrative Borrower of any such designation. Any Lender that is so designated as a Co-Agent, Syndication Agent, Documentation Agent or such similar designation by Agent

shall have no right, power, obligation, liability, responsibility or duty under this Agreement or any of the other Financing Agreements other than those applicable to all Lenders as such. Without limiting the foregoing, the Lenders so identified shall not have or be deemed to have any fiduciary relationship with any Lender and no Lender shall be deemed to have relied, nor shall any Lender rely, on a Lender so identified as a Co-Agent, Syndication Agent, Documentation Agent or such similar designation in deciding to enter into this Agreement or in taking or not taking action hereunder.

SECTION 13. TERM OF AGREEMENT; MISCELLANEOUS

13.1 Term.

(a) This Agreement and the other Financing Agreements shall become effective as of the date set forth on the first page hereof and shall continue in full force and effect for a term ending on the date five (5) years from the date hereof (the "Maturity Date"). Borrowers may terminate this Agreement at any time upon ten (10) days prior written notice to Agent (which notice shall be irrevocable) and Agent may, at its option, and shall at the direction of Required Lenders, terminate this Agreement at any time on or after an Event of Default and for so long as the same is continuing. Upon the Maturity Date or any other effective date of termination of the Financing Agreements, Borrowers shall pay to Agent all outstanding and unpaid Obligations and shall furnish cash collateral to Agent (or at Agent's option, a letter of credit issued for the account of Borrowers and at Borrowers' expense, in form and substance satisfactory to Agent, by an issuer acceptable to Agent and payable to Agent as beneficiary) in such amounts as Agent determines are reasonably necessary to secure Agent, Lenders and Issuing Bank from loss, cost, damage or expense, including attorneys' fees and expenses, in connection with any contingent Obligations, including issued and outstanding Letter of Credit Obligations and checks or other payments provisionally credited to the Obligations and/or as to which Agent or any Lender has not yet received final and indefeasible payment (and including any contingent liability of Agent to any bank at which deposit accounts of Borrowers and Guarantors are maintained under any Deposit Account Control Agreement) and for any of the Obligations arising under or in connection with any Bank Products in such amounts as the party providing such Bank Products may require (unless such Obligations arising under or in connection with any Bank Products are paid in full in cash and terminated in a manner satisfactory to such other party). The amount of such cash collateral (or letter of credit, as Agent may determine) as to any Letter of Credit Obligations shall be in the amount equal to one hundred five (105%) percent of the amount of the Letter of Credit Obligations plus the amount of any fees and expenses payable in connection therewith through the end of the latest expiration date of the then outstanding Letters of Credit. Such payments in respect of the Obligations and cash collateral shall be remitted by wire transfer in Federal funds to the Agent Payment Account or such other bank account of Agent, as Agent may, in its discretion, designate in writing to Administrative Borrower for such purpose. Interest shall be due until and including the next Business Day, if the amounts so paid by Borrowers to the Agent Payment Account or other bank account designated by Agent are received in such bank account later than 12:00 noon, Los Angeles time.

(b) No termination of the Commitments, this Agreement or any of the other Financing Agreements shall relieve or discharge any Borrower or Guarantor of its respective duties, obligations and covenants under this Agreement or any of the other Financing

Agreements until all Obligations have been fully and finally discharged and paid, and Agent's continuing security interest in the Collateral and the rights and remedies of Agent and Lenders hereunder, under the other Financing Agreements and applicable law, shall remain in effect until all such Obligations have been fully and finally discharged and paid. Accordingly, each Borrower and Guarantor waives any rights it may have under the UCC to demand the filing of termination statements with respect to the Collateral and Agent shall not be required to send such termination statements to Borrowers or Guarantors, or to file them with any filing office, unless and until this Agreement shall have been terminated in accordance with its terms and all Obligations paid and satisfied in full in immediately available funds.

13.2 Interpretative Provisions.

(a) All terms used herein which are defined in Article 1, Article 8 or Article 9 of the UCC shall have the meanings given therein unless otherwise defined in this Agreement.

(b) All references to the plural herein shall also mean the singular and to the singular shall also mean the plural unless the context otherwise requires.

(c) All references to any Borrower, Guarantor, Agent and Lenders pursuant to the definitions set forth in the recitals hereto, or to any other person herein, shall include their respective successors and assigns.

(d) The words "hereof", "herein", "hereunder", "this Agreement" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not any particular provision of this Agreement and as this Agreement now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

(e) The word "including" when used in this Agreement shall mean "including, without limitation" and the word "will" when used in this Agreement shall be construed to have the same meaning and effect as the word "shall".

(f) An Event of Default shall exist or continue or be continuing until such Event of Default is waived in accordance with Section 11.3 or is cured in a manner satisfactory to Agent, if such Event of Default is capable of being cured as determined by Agent.

(g) All references to the term "good faith" used herein when applicable to Agent or any Lender shall mean, notwithstanding anything to the contrary contained herein or in the UCC, honesty-in-fact in the conduct or transaction concerned and observance of reasonable commercial standards of fair dealing based on how an asset-based lender with similar rights providing a credit facility of the type set forth herein would act in similar circumstances at the time with the information then available to it.

(h) Any accounting term used in this Agreement shall have, unless otherwise specifically provided herein, the meaning customarily given in accordance with GAAP, and all financial computations hereunder shall be computed unless otherwise specifically provided herein, in accordance with GAAP as consistently applied and using the same method for inventory valuation as used in the preparation of the financial statements of Parent most recently received by Agent prior to the date hereof. Notwithstanding anything to the contrary contained

in GAAP or any interpretations or other pronouncements by the Financial Accounting Standards Board or otherwise, the term “unqualified opinion” as used herein to refer to opinions or reports provided by accountants shall mean an opinion or report that is unqualified and also does not include any explanation, supplemental comment or other comment concerning the ability of the applicable person to continue as a going concern or the scope of the audit.

(i) 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”.

(j) Unless otherwise expressly provided herein, (i) references herein to any agreement, document or instrument shall be deemed to include all subsequent amendments, modifications, supplements, extensions, renewals, restatements or replacements with respect thereto, but only to the extent the same are not prohibited by the terms hereof or of any other Financing Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, recodifying, supplementing or interpreting the statute or regulation.

(k) The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

(l) This Agreement and other Financing Agreements may use several different limitations, tests or measurements to regulate the same or similar matters. All such limitations, tests and measurements are cumulative and shall each be performed in accordance with their terms.

(m) This Agreement and the other Financing Agreements are the result of negotiations among and have been reviewed by counsel to Agent and the other parties, and are the products of all parties. Accordingly, this Agreement and the other Financing Agreements shall not be construed against Agent or Lenders merely because of Agent’s or any Lender’s involvement in their preparation.

13.3 Notices.

(a) All notices, requests and demands hereunder shall be in writing and deemed to have been given or made: if delivered in person, immediately upon delivery; if by telex, telegram or facsimile transmission, immediately upon sending and upon confirmation of receipt if during normal business hours of the recipient, otherwise on the next Business Day; if by nationally recognized overnight courier service with instructions to deliver the next Business Day, one (1) Business Day after sending; and if by certified mail, return receipt requested, five (5) days after mailing. Notices delivered through electronic communications shall be effective to the extent set forth in Section 13.3(b) below. All notices, requests and demands upon the parties are to be given to the following addresses (or to such other address as any party may designate by notice in accordance with this Section):

If to any Borrower or Guarantor:	c/o Merix Corporation 1521 Poplar Lane Forest Grove, Oregon 97116 Attention: Chief Financial Officer Telephone No.: (503) 359-9300 Telecopy No.: (503) 357-1504
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with a copy to: Perkins Coie LLP
1120 N.W. Couch Street
Tenth Floor
Portland, Oregon 97209-4128
Attention: George K. Fogg
Telephone No.: (503) 727-2022
Telecopy No.: (503) 346-2022

If to Agent or Issuing Bank: Wachovia Capital Finance Corporation
(Western)
251 South Lake Avenue
Suite 900
Pasadena, California 91101
Attention: Portfolio Manager
Telephone No.: (626) 304-4900
Telecopy No.: (626) 304-4949

(b) Notices and other communications to Lenders and Issuing Bank hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by Agent or as otherwise determined by Agent, provided, that, the foregoing shall not apply to notices to any Lender or Issuing Bank pursuant to Section 2 hereof if such Lender or Issuing Bank, as applicable, has notified Agent that it is incapable of receiving notices under such Section by electronic communication. Unless Agent otherwise requires, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided, that, if such notice or other communication is not given during the normal business hours of the recipient, such notice shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communications is available and identifying the website address therefor.

13.4 Partial Invalidity. If any provision of this Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate this Agreement as a whole, but this Agreement shall be construed as though it did not contain the particular provision held to be invalid or unenforceable and the rights and obligations of the parties shall be construed and enforced only to such extent as shall be permitted by applicable law.

13.5 Confidentiality.

(a) Agent, each Lender and Issuing Bank shall use all reasonable efforts to keep confidential, in accordance with safe and sound lending practices, any non-public information supplied to it by any Borrower pursuant to this Agreement which is clearly and conspicuously marked as confidential at the time such information is furnished by such Borrower to Agent, such Lender or Issuing Bank, provided, that, nothing contained herein shall limit the disclosure of any such information: (i) to the extent required by statute, rule, regulation, subpoena or court order, (ii) to bank examiners and other regulators, auditors and/or accountants, in connection with any litigation to which Agent, such Lender or Issuing Bank is a party, (iii) to any Lender or Participant (or prospective Lender or Participant) or Issuing Bank or to any Affiliate of any Lender so long as such Lender, Participant (or prospective Lender or Participant), Issuing Bank or Affiliate shall have been instructed to treat such information as confidential in accordance with this Section 13.5, or (iv) to counsel for Agent, any Lender, Participant (or prospective Lender or Participant) or Issuing Bank.

(b) In the event that Agent, any Lender or Issuing Bank receives a request or demand to disclose any confidential information pursuant to any subpoena or court order, Agent or such Lender or Issuing Bank, as the case may be, agrees (i) to the extent permitted by applicable law or if permitted by applicable law, to the extent Agent or such Lender or Issuing Bank determines in good faith that it will not create any risk of liability to Agent or such Lender or Issuing Bank, Agent or such Lender or Issuing Bank will promptly notify Administrative Borrower of such request so that Administrative Borrower may seek a protective order or other appropriate relief or remedy and (ii) if disclosure of such information is required, disclose such information and, subject to reimbursement by Borrowers of Agent's or such Lender's or Issuing Bank's expenses, cooperate with Administrative Borrower in the reasonable efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such portion of the disclosed information which Administrative Borrower so designates, to the extent permitted by applicable law or if permitted by applicable law, to the extent Agent or such Lender or Issuing Bank determines in good faith that it will not create any risk of liability to Agent or such Lender or Issuing Bank.

(c) In no event shall this Section 13.5 or any other provision of this Agreement, any of the other Financing Agreements or applicable law be deemed: (i) to apply to or restrict disclosure of information that has been or is made public by any Borrower, Guarantor or any third party or otherwise becomes generally available to the public other than as a result of a disclosure in violation hereof, (ii) to apply to or restrict disclosure of information that was or becomes available to Agent, any Lender (or any Affiliate of any Lender) or Issuing Bank on a non-confidential basis from a person other than a Borrower or Guarantor, (iii) to require Agent, any Lender or Issuing Bank to return any materials furnished by a Borrower or Guarantor to Agent, a Lender or Issuing Bank or prevent Agent, a Lender or Issuing Bank from responding to routine informational requests in accordance with the Code of Ethics for the Exchange of Credit Information promulgated by The Robert Morris Associates or other applicable industry standards relating to the exchange of credit information. The obligations of Agent, Lenders and Issuing Bank under this Section 13.5 shall supersede and replace the obligations of Agent, Lenders and Issuing Bank under any confidentiality letter signed prior to the date hereof or any other arrangements concerning the confidentiality of information provided by any Borrower or Guarantor to Agent or any Lender. In addition, Agent and Lenders may disclose information relating to the Credit Facility to Gold Sheets and other similar bank trade publications, with such information to consist of deal terms and other information customarily found in such publications.

13.6 Successors. This Agreement, the other Financing Agreements and any other document referred to herein or therein shall be binding upon and inure to the benefit of and be enforceable by Agent, Secured Parties, Borrowers, Guarantors and their respective successors and assigns, except that Borrower may not assign its rights under this Agreement, the other Financing Agreements and any other document referred to herein or therein without the prior written consent of Agent and Lenders. Any such purported assignment without such express prior written consent shall be void. No Secured Party may assign its rights and obligations under this Agreement without the prior written consent of Agent, except as provided in Section 13.7 below. The terms and provisions of this Agreement and the other Financing Agreements are for the purpose of defining the relative rights and obligations of Borrowers, Guarantors, Agent and Secured Parties with respect to the transactions contemplated hereby and there shall be no third party beneficiaries of any of the terms and provisions of this Agreement or any of the other Financing Agreements.

13.7 Assignments; Participations.

(a) Each Lender may, with the prior written consent of Agent and Administrative Borrower (which consent of Administrative Borrower shall not be unreasonably withheld, conditioned or delayed), assign all or, if less than all, a portion equal to at least \$5,000,000 in the aggregate for the assigning Lender, of such rights and obligations under this Agreement to one or more Eligible Transferees (but not including for this purpose any assignments in the form of a participation), each of which assignees shall become a party to this Agreement as a Lender by execution of an Assignment and Acceptance; provided, that, (i) the prior written consent of Administrative Borrower shall not be required at any time a Default or Event of Default shall exist or have occurred and be continuing, or in the case of a transfer or assignment to an existing Lender, to any Affiliate or Approved Fund of an existing Lender or a transfer or assignment upon the merger, consolidation, sale or transfer or other disposition of the business of a Lender, (ii) such transfer or assignment will not be effective until recorded by Agent on the Register and (iii) Agent shall have received for its sole account payment of a processing fee from the assigning Lender or the assignee in the amount of \$5,000, other than for assignments to Affiliates or an Approved Fund of the assigning Lender.

(b) Agent shall maintain a register of the names and addresses of Lenders, their Commitments and the principal amount of their Loans (the "Register"). Agent shall also maintain a copy of each Assignment and Acceptance delivered to and accepted by it and shall modify the Register to give effect to each Assignment and Acceptance. The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and any Borrowers, Guarantors, Agent and Lenders may treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by Administrative Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice.

(c) Upon such execution, delivery, acceptance and recording, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a

party hereto and to the other Financing Agreements and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment and Acceptance, have the rights and obligations (including, without limitation, the obligation to participate in Letter of Credit Obligations) of a Lender hereunder and thereunder and the assigning Lender shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights and be released from its obligations under this Agreement.

(d) By execution and delivery of an Assignment and Acceptance, the assignor and assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Acceptance, the assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or any of the other Financing Agreements or the execution, legality, enforceability, genuineness, sufficiency or value of this Agreement or any of the other Financing Agreements furnished pursuant hereto, (ii) the assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of any Borrower, Guarantor or any of their Subsidiaries or the performance or observance by any Borrower or Guarantor of any of the Obligations; (iii) such assignee confirms that it has received a copy of this Agreement and the other Financing Agreements, together with such other documents and information it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance, (iv) such assignee will, independently and without reliance upon the assigning Lender, Agent and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and the other Financing Agreements, (v) such assignee appoints and authorizes Agent to take such action as agent on its behalf and to exercise such powers under this Agreement and the other Financing Agreements as are delegated to Agent by the terms hereof and thereof, together with such powers as are reasonably incidental thereto, and (vi) such assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of this Agreement and the other Financing Agreements are required to be performed by it as a Lender. Agent and Lenders may furnish any information concerning any Borrower or Guarantor in the possession of Agent or any Lender from time to time to assignees and Participants.

(e) Each Lender may sell participations to one or more banks or other entities in or to all or a portion of its rights and obligations under this Agreement and the other Financing Agreements (including, without limitation, all or a portion of its Commitments and the Loans owing to it and its participation in the Letter of Credit Obligations, without the consent of Agent or the other Lenders); provided, that, (i) such Lender's obligations under this Agreement (including, without limitation, its Commitment hereunder) and the other Financing Agreements shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and Borrowers, Guarantors, the other Lenders and Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Financing Agreements, and (iii) the Participant shall not have any rights under this Agreement or any of the other Financing Agreements (the Participant's rights against such Lender in respect of such participation to be those set forth in the agreement executed by such Lender in favor of the Participant relating thereto) and all amounts payable by any Borrower or Guarantor hereunder shall be determined as if such Lender had not sold such participation.

(f) Nothing in this Agreement shall prevent or prohibit any Lender from pledging its Loans hereunder to a Federal Reserve Bank in support of borrowings made by such Lenders from such Federal Reserve Bank; provided, that, no such pledge shall release such Lender from any of its obligations hereunder or substitute any such pledgee for such Lender as a party hereto.

(g) Borrowers and Guarantors shall assist Agent or any Lender permitted to sell assignments or participations under this Section 13.7 in whatever manner reasonably necessary in order to enable or effect any such assignment or participation, including (but not limited to) the execution and delivery of any and all agreements, notes and other documents and instruments as shall be requested and the delivery of informational materials, appraisals or other documents for, and the participation of relevant management in meetings and conference calls with, potential Lenders or Participants. Borrowers shall certify the correctness, completeness and accuracy, in all material respects, of all descriptions of Borrowers and Guarantors and their affairs provided, prepared or reviewed by any Borrower or Guarantor that are contained in any selling materials and all other information provided by it and included in such materials.

(h) Any Lender that is an Issuing Bank may at any time assign all of its Commitments pursuant to this Section 13.7. If such Issuing Bank ceases to be Lender, it may, at its option, resign as Issuing Bank and such Issuing Bank's obligations to issue Letters of Credit shall terminate but it shall retain all of the rights and obligations of Issuing Bank hereunder with respect to Letters of Credit outstanding as of the effective date of its resignation and all Letter of Credit Obligations with respect thereto (including the right to require Lenders to make Revolving Loans or fund risk participations in outstanding Letter of Credit Obligations), shall continue.

13.8 Entire Agreement. This Agreement, the other Financing Agreements, any supplements hereto or thereto, and any instruments or documents delivered or to be delivered in connection herewith or therewith represents the entire agreement and understanding concerning the subject matter hereof and thereof between the parties hereto, and supersede all other prior agreements, understandings, negotiations and discussions, representations, warranties, commitments, proposals, offers and contracts concerning the subject matter hereof, whether oral or written. In the event of any inconsistency between the terms of this Agreement and any schedule or exhibit hereto, the terms of this Agreement shall govern.

13.9 USA Patriot Act. Each Lender subject to the USA Patriot Act (Title III of Pub.L. 107-56, signed into law October 26, 2001), (the "Act") hereby notifies Borrowers and Guarantors that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies each person or corporation who opens an account and/or enters into a business relationship with it, which information includes the name and address of Borrowers and Guarantors and other information that will allow such Lender to identify such person in accordance with the Act and any other applicable law. Borrowers and Guarantors are hereby advised that any Loans or Letters of Credit hereunder are subject to satisfactory results of such verification.

13.10 Counterparts, Etc. This Agreement or any of the other Financing Agreements may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement or any of the other Financing Agreements by telefacsimile or other electronic method of transmission shall have the same force and effect as the delivery of an original executed counterpart of this Agreement or any of such other Financing Agreements. Any party delivering an executed counterpart of any such agreement by telefacsimile or other electronic method of transmission shall also deliver an original executed counterpart, but the failure to do so shall not affect the validity, enforceability or binding effect of such agreement.

IN WITNESS WHEREOF, Agent, Lenders, Borrowers and Guarantors have caused these presents to be duly executed as of the day and year first above written.

BORROWERS

MERIX CORPORATION

By: /s/ Janie S. Brown
Title: Chief Financial Officer

MERIX SAN JOSE, INC.

By: /s/ Janie S. Brown
Title: Chief Financial Officer

GUARANTORS

MERIX NEVADA, INC.

By: /s/ Janie S. Brown
Title: Chief Financial Officer

MERIX ASIA, INC.

By: /s/ Janie S. Brown
Title: Chief Financial Officer

DATA CIRCUIT HOLDINGS, INC.

By: /s/ Janie S. Brown
Title: Chief Financial Officer

AGENT

WACHOVIA CAPITAL FINANCE
CORPORATION (WESTERN), as Agent

By: /s/ Dan Cott

Title: Director

ISSUING BANK

WACHOVIA BANK, NATIONAL
ASSOCIATION

By: /s/ Dan Cott

Title: Director

LENDERS

WACHOVIA CAPITAL FINANCE
CORPORATION (WESTERN)

By: /s/ Dan Cott

Title: Director

Commitment: \$35,000,000

BANK OF AMERICA, N.A.

By: /s/ Steve Sharp

Title: Vice President

Commitment: \$20,000,000

EXHIBIT A
to
LOAN AND SECURITY AGREEMENT

ASSIGNMENT AND ACCEPTANCE AGREEMENT

This ASSIGNMENT AND ACCEPTANCE AGREEMENT (this "Assignment and Acceptance") dated as of _____, 200_ is made between _____ (the "Assignor") and _____ (the "Assignee").

W I T N E S S E T H:

WHEREAS, Wachovia Capital Finance Corporation (Western), in its capacity as agent pursuant to the Loan Agreement (as hereinafter defined) acting for and on behalf of the financial institutions which are parties thereto as lenders (in such capacity, "Agent"), and the financial institutions which are parties to the Loan Agreement as lenders (individually, each a "Lender" and collectively, "Lenders") have entered or are about to enter into financing arrangements pursuant to which Agent and Lenders may make loans and advances and provide other financial accommodations to Merix Corporation and Merix San Jose, Inc. (collectively, "Borrowers") as set forth in the Loan and Security Agreement, dated September 28, 2005, by and among Borrowers, certain of their affiliates, Agent and Lenders (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, the "Loan Agreement"), and the other agreements, documents and instruments referred to therein or at any time executed and/or delivered in connection therewith or related thereto (all of the foregoing, together with the Loan Agreement, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, being collectively referred to herein as the "Financing Agreements");

WHEREAS, as provided under the Loan Agreement, Assignor committed to making Loans (the "Committed Loans") to Borrowers in an aggregate amount not to exceed \$_____ (the "Commitment");

WHEREAS, Assignor wishes to assign to Assignee [part of the] [all] rights and obligations of Assignor under the Loan Agreement in respect of its Commitment in an amount equal to \$_____ (the "Assigned Commitment Amount") on the terms and subject to the conditions set forth herein and Assignee wishes to accept assignment of such rights and to assume such obligations from Assignor on such terms and subject to such conditions;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, the parties hereto agree as follows:

1. Assignment and Acceptance.

(a) Subject to the terms and conditions of this Assignment and Acceptance, Assignor hereby sells, transfers and assigns to Assignee, and Assignee hereby purchases, assumes and undertakes from Assignor, without recourse and without representation or warranty (except as provided in this Assignment and Acceptance) an interest in (i) the Commitment and each of the Committed Loans of Assignor and (ii) all related rights, benefits, obligations, liabilities and indemnities of the Assignor under and in connection with the Loan Agreement and the other Financing Agreements, so that after giving effect thereto, the Commitment of Assignee shall be as set forth below and the Pro Rata Share of Assignee shall be _____ (___%) percent.

(b) With effect on and after the Effective Date (as defined in Section 5 hereof), Assignee shall be a party to the Loan Agreement and succeed to all of the rights and be obligated to perform all of the obligations of a Lender under the Loan Agreement, including the requirements concerning confidentiality and the payment of indemnification, with a Commitment in an amount equal to the Assigned Commitment Amount. Assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Loan Agreement are required to be performed by it as a Lender. It is the intent of the parties hereto that the Commitment of Assignor shall, as of the Effective Date, be reduced by an amount equal to the Assigned Commitment Amount and Assignor shall relinquish its rights and be released from its obligations under the Loan Agreement to the extent such obligations have been assumed by Assignee; provided, that, Assignor shall not relinquish its rights under Sections 2.2, 6.4, 6.9, 11.5 and 12.5 of the Loan Agreement to the extent such rights relate to the time prior to the Effective Date.

(c) After giving effect to the assignment and assumption set forth herein, on the Effective Date Assignee' s Commitment will be \$_____.

(d) After giving effect to the assignment and assumption set forth herein, on the Effective Date Assignor' s Commitment will be \$_____ (as such amount may be further reduced by any other assignments by Assignor on or after the date hereof).

2. Payments.

(a) As consideration for the sale, assignment and transfer contemplated in Section 1 hereof, Assignee shall pay to Assignor on the Effective Date in immediately available funds an amount equal to \$_____, representing Assignee' s Pro Rata Share of the principal amount of all Committed Loans.

(b) Assignee shall pay to Agent the processing fee in the amount specified in Section 13.7(a) of the Loan Agreement.

3. Reallocation of Payments. Any interest, fees and other payments accrued to the Effective Date with respect to the Commitment, Committed Loans and outstanding Letters of Credit shall be for the account of Assignor. Any interest, fees and other payments accrued on and after the Effective Date with respect to the Assigned Commitment Amount shall be for the account of Assignee. Each of Assignor and Assignee agrees that it will hold in trust for the other party any interest, fees and other amounts which it may receive to which the other party is entitled pursuant to the preceding sentence and pay to the other party any such amounts which it may receive promptly upon receipt.

4. Independent Credit Decision. Assignee acknowledges that it has received a copy of the Loan Agreement and the Schedules and Exhibits thereto, together with copies of the most recent financial statements of _____ and its Subsidiaries, and such other documents and information as it has deemed appropriate to make its own credit and legal analysis and decision to enter into this Assignment and Acceptance and agrees that it will, independently and without reliance upon Assignor, Agent or any Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit and legal decisions in taking or not taking action under the Loan Agreement.

5. Effective Date; Notices.

(c) As between Assignor and Assignee, the effective date for this Assignment and Acceptance shall be _____, 200__ (the "Effective Date"); provided, that, the following conditions precedent have been satisfied on or before the Effective Date:

(i) this Assignment and Acceptance shall be executed and delivered by Assignor and Assignee;

(ii) the consent of Agent as required for an effective assignment of the Assigned Commitment Amount by Assignor to Assignee shall have been duly obtained and shall be in full force and effect as of the Effective Date;

(iii) written notice of such assignment, together with payment instructions, addresses and related information with respect to Assignee, shall have been given to Administrative Borrower and Agent;

(iv) Assignee shall pay to Assignor all amounts due to Assignor under this Assignment and Acceptance; and

(v) the processing fee referred to in Section 2(b) hereof shall have been paid to Agent.

(d) Promptly following the execution of this Assignment and Acceptance, Assignor shall deliver to Administrative Borrower and Agent for acknowledgment by Agent, a Notice of Assignment in the form attached hereto as Schedule 1.

6. Agent. [INCLUDE ONLY IF ASSIGNOR IS AN AGENT]

(e) Assignee hereby appoints and authorizes Assignor in its capacity as Agent to take such action as agent on its behalf to exercise such powers under the Loan Agreement as are delegated to Agent by Lenders pursuant to the terms of the Loan Agreement.

(f) Assignee shall assume no duties or obligations held by Assignor in its capacity as Agent under the Loan Agreement.]

7. Withholding Tax. Assignee (a) represents and warrants to Assignor, Agent and Borrowers that under applicable law and treaties no tax will be required to be withheld by Assignee, Agent or Borrowers with respect to any payments to be made to Assignee hereunder or under any of the Financing Agreements, (b) agrees to furnish (if it is organized under the laws of any jurisdiction other than the United States or any State thereof) to Agent and Borrowers prior to the time that Agent or Borrowers are required to make any payment of principal, interest or fees hereunder, duplicate executed originals of either U.S. Internal Revenue Service Form W-8BEN or W-8ECI, as applicable (wherein Assignee claims entitlement to the benefits of a tax treaty that provides for a complete exemption from U.S. federal income withholding tax on all payments hereunder) and agrees to provide new such forms upon the expiration of any previously delivered form or comparable statements in accordance with applicable U.S. law and regulations and amendments thereto, duly executed and completed by Assignee, and (c) agrees to comply with all applicable U.S. laws and regulations with regard to such withholding tax exemption.

8. Representations and Warranties.

(a) Assignor represents and warrants that (i) it is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any security interest, lien, encumbrance or other adverse claim, (ii) it is duly organized and existing and it has the full power and authority to take, and has taken, all action necessary to execute and deliver this Assignment and Acceptance and any other documents required or permitted to be executed or delivered by it in connection with this Assignment and Acceptance and to fulfill its obligations hereunder, (iii) no notices to, or consents, authorizations or approvals of, any Person are required (other than any already given or obtained) for its due execution, delivery and performance of this Assignment and Acceptance, and apart from any agreements or undertakings or filings required by the Loan Agreement, no further action by, or notice to, or filing with, any Person is required of it for such execution, delivery or performance, and (iv) this Assignment and Acceptance has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of Assignor, enforceable against Assignor in accordance with the terms hereof, subject, as to enforcement, to bankruptcy, insolvency, moratorium, reorganization and other laws of general application relating to or affecting creditors' rights and to general equitable principles.

(b) Assignor makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Loan Agreement or any of the other Financing Agreements or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Agreement or any other instrument or document furnished pursuant thereto. Assignor makes no representation or warranty in connection with, and assumes no responsibility with respect to, the solvency, financial condition or statements of Borrowers, Guarantors or any of their respective Affiliates, or the performance or observance by Borrowers, Guarantors or any other Person, of any of its respective obligations under the Loan Agreement or any other instrument or document furnished in connection therewith.

(c) Assignee represents and warrants that (i) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and

deliver this Assignment and Acceptance and any other documents required or permitted to be executed or delivered by it in connection with this Assignment and Acceptance, and to fulfill its obligations hereunder, (ii) no notices to, or consents, authorizations or approvals of, any Person are required (other than any already given or obtained) for its due execution, delivery and performance of this Assignment and Acceptance, and apart from any agreements or undertakings or filings required by the Loan Agreement, no further action by, or notice to, or filing with, any Person is required of it for such execution, delivery or performance; and (iii) this Assignment and Acceptance has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of Assignee, enforceable against Assignee in accordance with the terms hereof, subject, as to enforcement, to bankruptcy, insolvency, moratorium, reorganization and other laws of general application relating to or affecting creditors' rights to general equitable principles.

9. Further Assurances. Assignor and Assignee each hereby agree to execute and deliver such other instruments, and take such other action, as either party may reasonably request in connection with the transactions contemplated by this Assignment and Acceptance, including the delivery of any notices or other documents or instruments to Borrowers or Agent, which may be required in connection with the assignment and assumption contemplated hereby.

10. Miscellaneous.

(d) Any amendment or waiver of any provision of this Assignment and Acceptance shall be in writing and signed by the parties hereto. No failure or delay by either party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof and any waiver of any breach of the provisions of this Assignment and Acceptance shall be without prejudice to any rights with respect to any other for further breach thereof.

(e) All payments made hereunder shall be made without any set-off or counterclaim.

(f) Assignor and Assignee shall each pay its own costs and expenses incurred in connection with the negotiation, preparation, execution and performance of this Assignment and Acceptance.

(g) This Assignment and Acceptance may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

(h) THIS ASSIGNMENT AND ACCEPTANCE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF _____. Assignor and Assignee each irrevocably submits to the non-exclusive jurisdiction of any State or Federal court sitting in _____ County, _____ over any suit, action or proceeding arising out of or relating to this Assignment and Acceptance and irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such _____ State or Federal court. Each party to this Assignment and Acceptance hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding.

(i) ASSIGNOR AND ASSIGNEE EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS ASSIGNMENT AND ACCEPTANCE, THE LOAN AGREEMENT, ANY OF THE OTHER FINANCING AGREEMENTS OR ANY RELATED DOCUMENTS AND AGREEMENTS OR ANY COURSE OF CONDUCT, COURSE OF DEALING, OR STATEMENTS (WHETHER ORAL OR WRITTEN).

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment and Acceptance to be executed and delivered by their duly authorized officers as of the date first above written.

[ASSIGNOR]

By: _____

Title: _____

[ASSIGNEE]

By: _____

Title: _____

NOTICE OF ASSIGNMENT AND ACCEPTANCE

_____, 20__

Attn.: _____

Re: _____

Ladies and Gentlemen:

Wachovia Capital Finance Corporation (Western), in its capacity as agent pursuant to the Loan Agreement (as hereinafter defined) acting for and on behalf of the financial institutions which are parties thereto as lenders (in such capacity, "Agent"), and the financial institutions which are parties to the Loan Agreement as lenders (individually, each a "Lender" and collectively, "Lenders") have entered or are about to enter into financing arrangements pursuant to which Agent and Lenders may make loans and advances and provide other financial accommodations to Merix Corporation and Merix San Jose, Inc. (collectively, "Borrowers") as set forth in the Loan and Security Agreement, dated _____, 2005, by and among Borrowers, certain of their affiliates, Agent and Lenders (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, the "Loan Agreement"), and the other agreements, documents and instruments referred to therein or at any time executed and/or delivered in connection therewith or related thereto (all of the foregoing, together with the Loan Agreement, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, being collectively referred to herein as the "Financing Agreements"). Capitalized terms not otherwise defined herein shall have the respective meanings ascribed thereto in the Loan Agreement.

1. We hereby give you notice of, and request your consent to, the assignment by _____ (the "Assignor") to _____ (the "Assignee") such that after giving effect to the assignment Assignee shall have an interest equal to _____ (%) percent of the total Commitments pursuant to the Assignment and Acceptance Agreement attached hereto (the "Assignment and Acceptance"). We understand that the Assignor's Commitment shall be reduced by \$_____, as the same may be further reduced by other assignments on or after the date hereof.

2. Assignee agrees that, upon receiving the consent of Agent to such assignment, Assignee will be bound by the terms of the Loan Agreement as fully and to the same extent as if the Assignee were the Lender originally holding such interest under the Loan Agreement.

3. The following administrative details apply to Assignee:

(A) Notice address:

Assignee name:

Address:

Attention:

Telephone:

Telecopier:

(B) Payment instructions:

Account No.:

At:

Reference:

Attention:

4. You are entitled to rely upon the representations, warranties and covenants of each of Assignor and Assignee contained in the Assignment and Acceptance.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Notice of Assignment and Acceptance to be executed by their respective duly authorized officials, officers or agents as of the date first above mentioned.

Very truly yours,

[NAME OF ASSIGNOR]

By: _____

Title: _____

[NAME OF ASSIGNEE]

By: _____

Title: _____

ACKNOWLEDGED AND ASSIGNMENT CONSENTED TO:

WACHOVIA CAPITAL FINANCE CORPORATION (WESTERN), as Agent

By: _____

Title: _____

EXHIBIT D
TO
LOAN AND SECURITY AGREEMENT

Compliance Certificate

To: Wachovia Capital Finance Corporation (Western), as Agent
251 South Lake Avenue
Suite 900
Pasadena, California 91101

Ladies and Gentlemen:

I hereby certify to you pursuant to Section 9.6 of the Loan Agreement (as defined below) as follows:

1. I am the duly elected Chief Financial Officer of Merix Corporation, an Oregon corporation and Merix San Jose, Inc., a California corporation (collectively, "Borrowers"). Capitalized terms used herein without definition shall have the meanings given to such terms in the Loan and Security Agreement, dated _____, 2005, by and among Wachovia Capital Finance Corporation (Western), as agent for the parties thereto as lenders (in such capacity, "Agent") and the financial institutions party thereto as lenders (collectively, "Lenders"), Borrowers and certain of their affiliates (as such Loan and Security Agreement is amended, modified or supplemented, from time to time, the "Loan Agreement").

2. I have reviewed the terms of the Loan Agreement, and have made, or have caused to be made under my supervision, a review in reasonable detail of the transactions and the financial condition of Borrowers and Guarantors, during the immediately preceding fiscal month.

3. The review described in Section 2 above did not disclose the existence during or at the end of such fiscal month, and I have no knowledge of the existence and continuance on the date hereof, of any condition or event which constitutes a Default or an Event of Default, except as set forth on Schedule I attached hereto. Described on Schedule I attached hereto are the exceptions, if any, to this Section 3 listing, in detail, the nature of the condition or event, the period during which it has existed and the action which any Borrower or Guarantor has taken, is taking, or proposes to take with respect to such condition or event.

4. I further certify that, based on the review described in Section 2 above, no Borrower or Guarantor has at any time during or at the end of such fiscal month, except as specifically described on Schedule II attached hereto or as permitted by the Loan Agreement, done any of the following:

(a) Changed its respective corporate name, or transacted business under any trade name, style, or fictitious name, other than those previously described to you and set forth in the Financing Agreements.

C-1

(b) Changed the location of its chief executive office, changed its jurisdiction of incorporation, changed its type of organization or changed the location of or disposed of any of its properties or assets (other than pursuant to the sale of Inventory in the ordinary course of its business or as otherwise permitted by Section 9.7 of the Loan Agreement), or established any new asset locations.

(c) Materially changed the terms upon which it sells goods (including sales on consignment) or provides services, nor has any vendor or trade supplier to any Borrower or Guarantor during or at the end of such period materially adversely changed the terms upon which it supplies goods to any Borrower or Guarantor.

(d) Permitted or suffered to exist any security interest in or liens on any of its properties, whether real or personal, other than as specifically permitted in the Financing Agreements.

(e) Received any notice of, or obtained knowledge of any of the following not previously disclosed to Agent: (i) the occurrence of any event involving the release, spill or discharge of any Hazardous Material in violation of applicable Environmental Law in a material respect or (ii) any investigation, proceeding, complaint, order, directive, claims, citation or notice with respect to: (A) any non-compliance with or violation of any applicable Environmental Law by any Borrower or Guarantor in any material respect or (B) the release, spill or discharge of any Hazardous Material in violation of applicable Environmental Law in a material respect or (C) the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Materials in violation of applicable Environmental Laws in a material respect or (D) any other environmental, health or safety matter, which has a material adverse effect on any Borrower or Guarantor or its business, operations or assets or any properties at which such Borrower or Guarantor transported, stored or disposed of any Hazardous Materials.

(f) Become aware of, obtained knowledge of, or received notification of, any breach or violation of any material covenant contained in any instrument or agreement in respect of Indebtedness for money borrowed by any Borrower or Guarantor.

(g) Filed any application for the registration of a Trademark or Patent with the United States Patent and Trademark Office or any similar office or agency in the United States of America, any State thereof, any political subdivision thereof or in any other country.

5. Attached hereto as Schedule III are the calculations used in determining, as of the end of such fiscal month whether Borrowers and Guarantors are in compliance with the covenants set forth in Section 9.17 of the Loan Agreement for such fiscal month.

6. Attached hereto as Schedule IV are the calculations used in determining, as of the end of such fiscal month, the Debt Ratio (as defined in the Merix 6.5% Debenture) for such fiscal month.

The foregoing certifications are made and delivered this day of _____, 20__.

Very truly yours,

By: _____
Title: _____

Allen & Overy

EXECUTION COPY

CREDIT AGREEMENT

USD30,000,000

CREDIT FACILITIES

for

MERIX CAYMANS TRADING COMPANY LIMITED

with

STANDARD CHARTERED BANK (HONG KONG) LIMITED
as Facility Agent

and

STANDARD CHARTERED BANK (HONG KONG) LIMITED
as Security Agent

2005

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Signatories

BETWEEN:

- (1) **MERIX CAYMANS HOLDING COMPANY LIMITED** (registered number CT-153771) with its registered office at the offices of Codan Trust Company (Cayman) Limited, Century Yard, Cricket Square, Hutchins Drive, P.O. Box 2681 GT, George Town, Grand Cayman, Cayman Islands (the **Company**);
- (2) **THE PERSON** listed in Part 1 of Schedule 1 (Original Parties) as borrower (in this capacity the **Borrower**);
- (3) **THE PERSONS** listed in Part 1 of Schedule 1 (Original Parties) as original guarantors (in this capacity the **Original Guarantors**);
- (4) **THE PERSONS** listed in Part 2 of Schedule 1 (Original Parties) as original lenders (the **Original Lenders**);
- (5) **STANDARD CHARTERED BANK (HONG KONG) LIMITED** as facility agent (in this capacity the **Facility Agent**);
- (6) **STANDARD CHARTERED BANK (HONG KONG) LIMITED** as security agent and trustee (in this capacity the **Security Agent**); and
- (7) **STANDARD CHARTERED BANK (HONG KONG) LIMITED** in its capacity as the administrative agent under the Capex Facility Agreement (as defined below) (in this capacity the **Administrative Agent**).

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement:

Accession Agreement means an agreement substantially in the form of Schedule 8 (Form of Accession Agreement), with such amendments as the Facility Agent and the Company may agree.

Accounting Date means any one of the following dates: 22 April 2006, 22 July 2006, 21 October 2006, 20 January 2007, 21 April 2007, 21 July 2007, 20 October 2007, 26 January 2008, 26 April 2008, 26 July 2008, 25 October 2008 and 24 January 2009, or otherwise as may be agreed between the Company and the Facility Agent.

Accounting Period means a period of approximately one year or three months (as the case may be) ending on an Accounting Date for which Accounts are required to be prepared under this Agreement.

Accounting Month means a period of four or five weeks determined as follows:

- (a) each three month Accounting Period has three Accounting Months;
- (b) the first and second Accounting Months in each three month Accounting Period shall be four week periods; and

(c) the third Accounting Month in a three month Accounting Period shall be a five week Period.

Accounting Standards means accounting standards which are generally accepted in the United States of America and approved by the relevant regulatory or other accounting bodies in that jurisdiction.

Accounts means each set of financial statements required to be prepared by a member of the Group and supplied to the Facility Agent under this Agreement.

Acquisition means the acquisition by the Borrower of the Target Group and the acquisition by the Borrower and certain of its Subsidiaries of the Target Assets pursuant to the Acquisition Documents.

Acquisition Costs means all fees, costs, expenses and stamp, registration or transfer Taxes incurred by (or otherwise required to be paid by) members of the Merix Group in connection with the Acquisition, the Transaction Documents and the Wachovia Facility up to the date six months after Closing.

Acquisition Documents means:

- (a) the sale and purchase agreement dated 14 April 2005 between the Seller and Merix Corporation;
- (b) letter from Merix Corporation to the Seller dated 28 July 2005;
- (c) letter from Merix Corporation to the Seller dated 16 September 2005; and
- (d) the amended and restated sale and purchase agreement dated on or about 27 September 2005 between the Seller and Merix Corporation,

and all transfers and other instruments made pursuant to any of them.

Additional Guarantor means a member of the Group which becomes a Guarantor after the date of this Agreement under Clause 28.6 (Additional Guarantors).

Affiliate means a Subsidiary or a Holding Company of a person or any other Subsidiary of that Holding Company.

Agent means the Facility Agent or the Security Agent, as appropriate.

Approved Bank means

- (a) a bank or financial institution which has a rating for its long-term unsecured and non-credit enhanced debt obligations of AA or higher by S&P or Fitch or Aa2 or higher by Moody' s or a comparable rating from an internationally recognised credit rating agency; or
- (b) any other bank or financial institution approved by the Facility Agent.

Auditors means PricewaterhouseCoopers or such other independent public accountants of international standing which may be appointed by Merix Corporation and the Company as their auditors.

Availability Period means the period from and including the date of this Agreement to and including:

- (a) for the Term Loan Facility, the 90th day after Eastern Pacific Circuits Investments (Singapore) Pte. Ltd.(to be renamed Merix Holding (Singapore) Pte. Ltd.) has completed the whitewash procedure under section 76 of the Corporation Act of Singapore for the purposes of providing a guarantee and security in connection with the Finance Documents; and
- (b) for the Revolving Credit Facility, one month prior to the Final Maturity Date,

Book-to-Bill Ratio means, in relation to the Group, the ratio of the aggregate amount of all confirmed orders received in an Accounting Month to the aggregate amount of all invoices issued in that Accounting Month.

Break Costs means the amount (if any) which a Lender is entitled to receive under Clause 25.4 (Break Costs).

Business Day means a day (other than a Saturday or a Sunday) on which banks are open for general business in Hong Kong and New York and if on that day a payment in or a purchase of a currency is to be made, the principal financial centre of the country of that currency.

Capex Facility Agreement means the credit agreement dated 28 April 2004 and made between the Eastern Pacific Circuits Investments (Singapore) Pte. Ltd. and the Lenders, as amended by an amendment agreement dated 5 July 2005 and an amendment agreement to be executed on the Closing Date.

Capex Loan means the USD5,100,000 facility made available by the Lenders to Eastern Pacific Circuits Investments (Singapore) Pte. Ltd. pursuant to the Capex Facility Agreement.

Capital Expenditure means any expenditure which is treated as capital expenditure in accordance with the Accounting Standards.

Cash means cash in hand or credit balances or amounts on deposit with any Approved Bank which is:

- (a) accessible by a member of the Group within 30 days; and
- (b) not subject to any Security Interest (other than one existing under the Security Documents).

Cash Equivalent means at any time:

- (a) certificates of deposit maturing within one year after the relevant date of calculation, issued by an Approved Bank;
- (b) any investment in marketable obligations issued or guaranteed by the government of the United States of America or by an instrumentality or agency of any of them having an equivalent credit rating which:
 - (i) matures within one year after the relevant date of calculation; and
 - (ii) is not convertible to any other security;
- (c) open market commercial paper (including variable rate demand notes and taxable auction variable rate notes) not convertible to any other security:
 - (i) for which a recognised trading market exists;
 - (ii) issued in the United States of America;

- (iii) which matures within one year after the relevant date of calculation; and
 - (iv) which has a credit rating of either A-1 or higher by S&P or Fitch or P-1 or higher by Moody' s, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;
- (d) investments accessible within 30 days in money market funds which:
- (i) have a credit rating of either A-1 or higher by S&P or Fitch or P-1 or higher by Moody' s; and
 - (ii) invest substantially all their assets in securities of the types described in paragraphs (a) to (c) above; or
- (e) any other debt security or investment approved by the Majority Lenders,

in each case, to which any member of the Group is beneficially entitled at that time and which is not issued or guaranteed by any member of the Group or subject to any Security Interest (other than one arising under the Security Documents).

Chief Executive Officer means:

- (a) Daniel Olson as chief executive officer of the Company or his replacement; or
- (b) any director of the Company acting as that officer' s deputy in that capacity or performing those functions.

Chief Financial Officer means:

- (a) Amy Y.S. Chan as finance director of the Company or her replacement; or
- (b) any director of the Company acting as that officer' s deputy in that capacity or performing those functions.

Closing means execution of the Closing Confirmation Notice by all parties to it.

Closing Confirmation Notice means the notice substantially in the form of Part 5 (Form of Closing Confirmation Notice) of Schedule 2 (Condition precedent documents).

Closing Date means the date on which Closing occurs.

Commitment means a Term Loan Commitment or a Revolving Credit Commitment.

Compliance Certificate means a certificate, substantially in the form of Schedule 6 (Form of Compliance Certificate).

Consolidated Cashflow, Consolidated EBITDA, Consolidated Net Working Capital, Consolidated Total Debt Service, Consolidated Total Interest Payable, Consolidated Total Borrowings and Consolidated Total Interest Payable each has the meaning given to it in Clause 18 (Financial covenants).

Default means:

- (a) an Event of Default; or

- (b) an event or circumstance which would be (with the expiry of a grace period, the giving of notice, the making of any determination or the satisfaction of any other applicable condition under the Finance Documents or any combination of them) an Event of Default.

EPC Credit Agreement means the credit agreement dated 10 August 2000 and made between, among others, Eastern Pacific Circuits Limited and Eastern Pacific Circuits (HK) Limited and the Lenders, as amended by the First Amendment Agreement dated 12 June 2002 and the Second Amendment Agreement dated 12 August 2003.

EPC Dongguan means Eastern Pacific Circuits (Dongguan) Limited (东莞瑞花电路有限公司).

EPC Facilities means the USD150,000,000 facilities made available by the Lenders to Eastern Pacific Circuits Limited and Eastern Pacific Circuits (HK) Limited pursuant to the EPC Credit Agreement.

EPC Lomber means Lomber (Huizhou) Limited (惠州龙柏电路有限公司).

EPCHY means Eastern Pacific Circuits (Huiyang) Limited (瑞花电路(惠阳)有限公司).

EPCHZ means Eastern Pacific Circuits (Huizhou) Limited (瑞花电路(惠州)有限公司).

Environmental Approval means any authorisation required by Environmental Law.

Environmental Claim means any claim by any person in connection with:

- (a) a breach, or alleged breach, of Environmental Law;
- (b) any accident, fire, explosion or other event of any type involving an emission or substance which is capable of causing harm to any living organism or the environment; or
- (c) any other environmental contamination.

Environmental Law means any law or regulation concerning:

- (a) the protection of health;
- (b) the environment;
- (c) the conditions of the workplace; or
- (d) any emission or substance which is capable of causing harm to any living organism or the environment.

Event of Default means an event specified as such in Clause 20 (Default).

Excess Cashflow means, for any annual Accounting Period of the Company, Consolidated Cashflow for that period minus Consolidated Total Debt Service for that period.

Executive Officer means the Chief Executive Officer or the Chief Financial Officer.

Facility means a Term Loan Facility or a Revolving Credit Facility.

Facility Office means the office(s) notified by a Lender to the Facility Agent:

- (a) on or before the date it becomes a Lender; or
- (b) by not less than five Business Days' notice,

as the office(s) through which it will perform its obligations under this Agreement.

Fee Letter means the letter entered into by reference to this Agreement between one or more Agents and the Borrower setting out the amount of certain fees referred to in this Agreement.

Final Maturity Date means 15 March 2009.

Finance Document means:

- (a) this Agreement;
- (b) a Fee Letter;
- (c) an Accession Agreement;
- (d) a Transfer Certificate;
- (e) a Security Document;
- (f) a Subordination Agreement;
- (g) a Compliance Certificate;
- (h) a Margin Certificate;
- (i) a Request;
- (j) the Merix Letter of Support;
- (k) any other document designated as such by the Facility Agent and the Company.

Finance Party means a Lender or an Agent.

Financial Indebtedness means any indebtedness for or in respect of the following (without double counting):

- (a) moneys borrowed;
- (b) debit balances at a financial institution (net of credit balances at that financial institution);
- (c) any acceptance credit or bill discounting facility (including any dematerialised equivalent);
- (d) any bond, note, debenture, loan stock or other similar instrument;
- (e) any share in any member of the Group which is not held by another member of the Group and which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable, in each case at the option of the holder of that security) is capable of maturing or being mandatorily redeemable or redeemable at the option of its holder in whole or in part on or before the Senior Discharge Date;

-
- (f) any agreement treated as a finance or capital lease in accordance with the Accounting Standards;
 - (g) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and any receivables sold to Merix Corporation in connection with the Acquisition) ;
 - (h) the acquisition cost of any asset or service from a person other than a member of the Group to the extent payable before or after its acquisition or possession by the party liable where the advance or deferred payment:
 - (i) is arranged primarily as a method of raising finance or financing the acquisition or construction of that asset or the acquisition of that service (but excluding trade credit on customary commercial terms); or
 - (ii) involves a period of more than three months before or after the date of acquisition or supply;
 - (i) any Treasury Transaction (and, except for non-payment of an amount, the mark to market value of a Treasury Transaction will be used to calculate its amount);
 - (j) any other transaction (including any forward sale or purchase agreement and any sale and sale back, sale and lease back or deferred purchase arrangement) which has the commercial effect of a borrowing;
 - (k) any counter-indemnity obligation in respect of any guarantee, indemnity, bond, letter of credit or other instrument issued by a bank or financial institution; or
 - (l) any guarantee in respect of an underlying liability of any person which is of the nature referred to in the above paragraphs.

Fitch means Fitch Ratings Limited or any successor to its rating business.

Group means the Company and its Subsidiaries.

Group Subordination Agreement means the subordination agreement dated on or about the date of this Agreement between, among others, members of the Merix Group, members of the Group and the Lenders.

Guarantor means an Original Guarantor or an Additional Guarantor.

Holding Company of any other person means a person in respect of which that other person is a Subsidiary.

Increased Cost means:

- (a) an additional or increased cost;
- (b) a reduction in the rate of return from a Facility or on a Finance Party' s (or its Affiliate' s) overall capital; or
- (c) a reduction of an amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates but only to the extent attributable to that Finance Party having entered into any Finance Document or funding or performing its obligations under any Finance Document.

Information means all information delivered by or on behalf of an Obligor or the Investor to a Finance Party, in relation to the Acquisition, the Target Group, the Obligors, and the Facilities on or before the Closing Date.

Insurance means any contract of insurance taken out by or on behalf of a member of the Group or under which it has a right to claim.

Intellectual Property Rights means:

- (a) any know-how, patent, trade mark, service mark, design, business name, domain name, topographical or similar right;
- (b) any copyright, data base or other intellectual property right; or
- (c) any interest (including by way of licence) in the above,

in each case whether registered or not, and includes any related application.

Interest means:

- (a) interest and amounts in the nature of interest accrued;
- (b) prepayment penalties or premiums incurred in repaying or prepaying any Financial Indebtedness;
- (c) discount fees and acceptance fees payable or deducted in respect of any Financial Indebtedness, including fees payable in respect of any letters of credit and guarantees;
- (d) any net payment (or, if appropriate in the context, receipt) under hedging agreement or instrument, taking into account any premiums payable; and
- (e) any other payments and deductions of similar effect (including the interest element of finance leases),

and **Interest** includes commitment and non-utilisation fees (including those payable under the Finance Documents), but excludes agent' s and front-end, management, arrangement and participation fees with respect to any Financial Indebtedness (including those payable under the Finance Documents).

Investor means Merix Asia, Inc., a company incorporated in Oregon, the United States of America.

Joint Venture means any joint venture entity, partnership or similar person, the ownership of or other interest in which does not require any member of the Group to consolidate the results of that person with its own as a Subsidiary.

Lender means:

- (a) an Original Lender; or
- (b) any person which becomes a Lender after the date of this Agreement under Clause 28.2 (Assignments and transfers by Lenders).

Leverage Ratio means the ratio of Consolidated Total Borrowings at a quarterly Accounting Date to Consolidated EBITDA for the four quarterly Account Periods immediately preceding that Accounting Date.

LIBOR means for a Term of any Loan or overdue amount:

- (a) the applicable Screen Rate; or
- (b) if no Screen Rate is available for that Term of that Loan or overdue amount, the arithmetic mean (rounded upward to four decimal places) of the rates, as supplied to the Facility Agent at its request, quoted by the Reference Banks,

as of 11.00 a.m. London time on the Rate Fixing Day for the offering of deposits in the currency of that Loan or overdue amount for a period comparable to that Term.

Loan means the principal amount of each borrowing under a Facility or the principal amount outstanding of that borrowing.

Majority Lenders means, at any time, Lenders:

- (a) whose shares in the outstanding Loans and undrawn Commitments then aggregate $66\frac{2}{3}$ per cent. or more of the aggregate of all the outstanding Loans and undrawn Commitments of all the Lenders;
- (b) if there is no Loan then outstanding, whose undrawn Commitments then aggregate $66\frac{2}{3}$ per cent. or more of the Total Commitments; or
- (c) if there is no Loan then outstanding and the Total Commitments have been reduced to zero, whose Commitments aggregated $66\frac{2}{3}$ per cent. or more of the Total Commitments immediately before the reduction.

A Lender may by notice to the Facility Agent divide its Loans or Commitments into separate amounts to reflect participation or similar arrangements and require the separate amounts to be counted separately for the purpose of this definition.

Margin means, at any time, the rate per annum determined in accordance with Clause 8.3 (Margin adjustments).

Margin Certificate means a certificate, substantially in the form of Schedule 7 (Form of Margin Certificate).

Material Adverse Effect means any effect which, in the opinion of the Majority Lenders, is or is reasonably likely to be materially adverse to:

- (a) the ability of any Obligor to perform any of its payment obligations under any of the Finance Documents (taking into account resources available to it without breaching the terms of this Agreement from other members of the Group);
- (b) the ability of the Company to comply with its obligations under Clause 18 (Financial covenants);
- (c) the assets, prospects or financial condition of the Group taken as a whole;
- (d) any right or remedy of a Finance Party in respect of a Finance Document; or

- (e) the validity or enforceability of, or effectiveness or ranking of any security granted or purported to be granted pursuant to, any Finance Document.

Maturity Date means, for a Revolving Credit Loan, the last day of its Term.

Merix Corporation means Merix Corporation, a company incorporated in the State of Oregon, whose registered office is at 1521 Popular Lane, P.O. Box 3000, F4-234, Forest Grove, OR 97116, United States of America.

Merix Group means Merix Corporation and its Subsidiaries.

Merix Letter of Support means a letter from Merix Corporation to the Facility Agent and the Lenders in the agreed form as set out in Schedule 9 (Form of the Merix Letter of Support).

MOFCOM means the PRC foreign trade and economic authority that originally approved the establishment of the relevant PRC Subsidiary and that is authorised under PRC laws to approve the pledge provided by that Subsidiary.

Moody's means Moody's Investors Service Limited or any successor to its ratings business.

Net Proceeds has the meaning given to it in Clause 7.4 (Mandatory prepayment - disposals).

Non-Core Subsidiary means Eastern Pacific Circuits Investments Limited, EPC Lomber, EPC Dongguan, Merix Singapore Sales Pte. Ltd., Merix UK Limited and Merix Circuits Corp.

Non-Obligor means a member of the Group which is not an Obligor.

Obligor means the Company, the Borrower or a Guarantor.

Original Obligor means the Company, the Borrower or an Original Guarantor.

Party means a party to this Agreement.

Permitted Joint Venture means each of EPCHZ, EPCHY, EPC Lomber or EPC Dongguan.

Permitted Reorganisation means:

- (a) a reorganisation on a solvent basis of a member of the Group (other than the Company or the Borrower) where:
- (i) no Default is then outstanding;
 - (ii) all of the assets of that member remain within the Group and the value or percentage of any minority interest in any member of the Group held by any person which is not a member of the Group is not increased; and
 - (iii) the Lenders will enjoy (in the opinion of the Facility Agent (acting reasonably) and supported by any professional opinions and reports requested by it) at least the same or equivalent guarantees from it (or its successor) and at least the same or equivalent security over the same assets and over the shares in it (or in each case its successor) after the reorganisation as the Lenders enjoyed before the reorganisation; or
- (b) any other reorganisation of one or more members of the Group approved by the Majority Lenders.

PRC means the People' s Republic of China.

Pro Rata Share means the proportion which a Lender' s Commitment under a Facility bears to all the Commitments under that Facility.

Rate Fixing Day means the second London Business Day before the first day of a Term for a Loan, or such other day as the Facility Agent determines is generally treated as the rate fixing day in the relevant currency by market practice in the relevant interbank market.

Recovery Event has the meaning given to it in Clause 7.4 (Mandatory prepayment - disposals).

Reference Banks means, in relation to LIBOR, the principal offices of Standard Chartered Bank (Hong Kong) Limited, JPMorgan Chase Bank N.A. and Commerzbank and any other bank or financial institution appointed as such by the Facility Agent under this Agreement.

Repayment Instalment means each scheduled instalment for repayment of a Term Loan identified in Clause 6.1(a) of this Agreement.

Repeating Representations means at any time the representations and warranties which are then made or deemed to be repeated under Clause 16.24 (Times for making representations and warranties).

Request means a request for a Loan, substantially in the form of Schedule 3 (Form of Request).

Reservations means:

- (a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court, the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under applicable limitation laws (including the Limitation Acts), the possibility that an undertaking to assume liability for or to indemnify a person against non-payment of stamp duty may be void, defences of set-off or counterclaim; and
- (c) any other general principles which are set out as qualifications as to matters of law in the legal opinions delivered to the Facility Agent under Schedule 2 (Conditions precedent).

Revolving Credit Commitment means:

- (a) for an Original Lender, the amount set opposite its name in Part 2 of Schedule 1 (Original Parties) under the heading Revolving Credit Commitments and the amount of any other Revolving Credit Commitment it acquires; and
- (b) for any other Lender, the amount of any Revolving Credit Commitment it acquires,

to the extent not cancelled, transferred or reduced under this Agreement.

Revolving Credit Facility means the revolving credit facility referred to in Clause 2.2 (Revolving Credit Facility).

Revolving Credit Loan means a Loan under the Revolving Credit Facility.

Rollover Credit means one or more Loans under the Revolving Credit Facility:

- (a) to be made on the same day that a maturing Loan under that Facility is due to be repaid;

- (b) the aggregate amount of which is equal to or less than the maturing Loan;
- (c) in the same currency as the maturing Loan; and
- (d) to be made to the Borrower for the purpose of refinancing the maturing Loan.

S&P means Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc. or any successor to its rating business.

SAIC means the PRC industry and commerce authority with which the relevant PRC Subsidiary is registered and which is the authority with which the relevant pledge is to be registered.

Screen Rate means for LIBOR, the rate for USD displayed on page 3750 of the Moneyline Telerate. If the relevant page is replaced or the service ceases to be available, the Facility Agent (after consultation with the Company and the Lenders) may specify another page or service displaying the appropriate rate.

Security Document means:

- (a) each document referred to in Schedule 5 (Security Documents) or entered or required to be entered into under Clause 19.30 (Security); and
- (b) any other document evidencing or creating any guarantee or security over any asset of any Obligor to secure any obligation of any Obligor to a Finance Party under the Finance Documents.

Security Interest means any mortgage, pledge, lien, charge (fixed or floating), assignment, hypothecation, set-off or trust arrangement for the purpose of creating security, reservation of title or security interest or any other agreement or arrangement having a substantially similar effect.

Seller means Eastern Pacific Circuits Holdings Limited.

Seller Loan Note Instrument means the unsecured subordinated loan stock instrument executed by the Borrower on or before Closing together with any loan notes or loan stock issued under the instrument, in the agreed form as set out in Schedule 10 (Form of Seller Loan Note Instrument).

Seller Subordination Agreement means the subordination agreement dated on or about the date of this Agreement between, among others, the Borrower, the Lenders and the Seller.

Senior Discharge Date means the date on which the Senior Debt (as defined in the Group Subordination Agreement) has been unconditionally and irrevocably paid and discharged in full.

Structure Memorandum means the memorandum and chart in the agreed form as set out in Schedule 11 (Structure Memorandum).

Subordination Agreement means the Seller Subordination Agreement or the Group Subordination Agreement.

Subsidiary means:

- (a) an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership and control for this purpose means the power to direct the management and the policies of the entity whether through the ownership of voting capital, by contract or otherwise; or

(b) an entity treated as a subsidiary in the financial statements of any person pursuant to the Accounting Standards.

Target Assets means the assets that the Borrower and its Subsidiaries have agreed to purchase from the Seller and its Subsidiaries pursuant to the Acquisition Documents.

Targets means:

- (a) Eastern Pacific Circuits Investments Limited, to be renamed as Merix Holding (Hong Kong) Limited; and
- (b) Eastern Pacific Circuits Investments (Singapore) Pte Ltd., to be renamed as Merix Holding (Singapore) Pte. Ltd.

Target Group means the Targets and their Subsidiaries at Closing.

Target Shares means all the shares (of whatever class) in the capital of Targets, together with all related rights.

Tax means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty or interest).

Tax Credit means a credit against any Tax or any relief or remission for or rebate of Tax (or its repayment).

Tax Deduction means a deduction or withholding for or on account of Tax other than a Tax described in Subclause 11.2(b) from a payment under any Finance Document.

Tax Payment means a payment made by an Obligor to a Finance Party in any way relating to a Tax Deduction or under any indemnity given by that Obligor in respect of Tax under any Finance Document.

Term means each period determined under this Agreement by reference to which interest on a Loan or an overdue amount is calculated.

Term Loan means a Loan under a Term Loan Facility.

Term Loan Commitment means:

- (a) for an Original Lender, the amount set opposite its name in Part 2 of Schedule 1 (Original Parties) under the heading Term Loan Commitments and the amount of any other Term Loan Commitment which it acquires; and
- (b) for any other Lender, the amount of any other Term Loan Commitment so designated which it acquires,

in each case to the extent not cancelled, transferred or reduced under this Agreement.

Term Loan Facility means the term loan facility referred to in Clause 2.1 (Term Loan Facility).

Test Period has the meaning given to it in Clause 18 (Financial covenants).

Total Commitments means the aggregate of the Commitments of all the Lenders.

Total Revolving Credit Commitments means the aggregate of the Revolving Credit Commitments of all the Lenders.

Total Term Loan Commitments means the aggregate of the Term Loan Commitments of all the Lenders.

Transaction Documents means:

- (a) the Finance Documents;
- (b) the Seller Loan Note Instrument; and
- (c) the Acquisition Documents.

Transfer Certificate means a certificate substantially in the form of Schedule 4 (Form of Transfer Certificates) with such amendments as the Facility Agent may approve or reasonably require or any other form agreed between the Facility Agent and the Company.

Treasury Transaction means any derivative transaction entered into in connection with protection against or to benefit from fluctuations in any rate, price, index or credit rating.

U.S. Dollars and **USD** means the lawful currency for the time being of the United States of America.

Utilisation Date means each date on which a Facility is utilised by the drawing of a Loan.

Wachovia Facility means the USD65,000,000 senior secured credit facility made available to the Merix Group by Wachovia Bank, National Association.

1.2 Construction

- (a) In this Agreement, unless the contrary intention appears, a reference to:
 - (i) a document being in the **agreed form** means that the document is in a form previously agreed in writing by or on behalf of the Company and the Facility Agent or if not so agreed is in the form specified by the Facility Agent;
 - (ii) an **amendment** includes an amendment, supplement, novation, re-enactment, replacement, restatement or variation and **amend** will be construed accordingly;
 - (iii) **assets** includes businesses, undertakings, securities, properties, revenues or rights of every description and whether present or future, actual or contingent;
 - (iv) an **authorisation** includes an authorisation, consent, approval, resolution, permit, licence, exemption, filing, registration or notarisation;
 - (v) a **communication** includes any notice, order, letter or other communication;
 - (vi) a **constitutional document** includes, in relation to an entity, any bylaw, memorandum, article of association, certificate of incorporation or other document concerning the constitution of that entity;
 - (vii) a **contract** or **document** includes any instrument, agreement, side letter, deed, indenture, note, mortgage, charge, hypothecation, assignment pledge, lien, transfer, conveyance, assurance, bill of exchange, letter of credit, deed of trust, guarantee, indemnity, bond, insurance contract or policy or other document, instrument or obligation (including any leasing or hire-purchase agreement);

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- (viii) a **cost** includes any cost (including any enforcement cost), expense or fee (including any legal fee);
- (ix) a **discharge** includes any intermediate payment, discharge, arrangement, waiver, granting of time, composition, renewal, reduction, compromise, postponement, release, indulgence, settlement, arrangement, failure to perfect, take up, exercise or enforce, non-presentation, non-provability or non-observance or failure to realise full value;
- (x) **disposal** means a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary and whether pursuant to a single transaction or a series of transactions, and dispose will be construed accordingly;
- (xi) an **entity** includes any individual, corporation, partnership, firm, limited liability company, association (whether or not having separate legal personality), business, trust, undertaking (within the meaning of section 259(1) of the Companies Act 1985) or other joint venture or any other entity or organisation (including any government authority or political subdivision, agency or instrumentality thereof) together with any permitted successor or transferee of any of the same and includes, where relevant, any party hereto;
- (xii) **guarantee** means any guarantee, bond, letter of credit, indemnity or similar assurance against financial loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person, where, in each case, that obligation is assumed in order to maintain or assist the ability of that person to meet any of its indebtedness;
- (xiii) **incorporation** includes the formation or establishment of a partnership or any other person and **incorporate** will be construed accordingly;
- (xiv) **indebtedness** includes any obligation (whether incurred as principal or as surety and whether present or future, actual or contingent) for the payment or repayment of money;
- (xv) **information** includes any form of information, whether stored electronically or otherwise, (including any letter, record, report, budget, list, drawing, specification, extract, analysis, document, notice or contract);
- (xvi) an **invalidity** includes any invalidity, illegality, irregularity, unenforceability, incapacity (whether by virtue of an Insolvency Event or otherwise), lack of power, authority or legal personality or dissolution and the term **invalid** shall be construed accordingly;
- (xvii) **jurisdiction of incorporation** includes any jurisdiction under the laws of which a person is incorporated;
- (xviii) **know your customer requirements** are the identification checks that a Finance Party requests in order to meet its obligations under any applicable law or regulation to identify a person who is (or is to become) its customer;
- (xix) a **law** includes any statute, law, rule, regulation, directive, statutory instrument, decree, guideline, ordinance, code, code of practice, article, order, court order, concession (including any practice or concession of any taxing authority), restriction or other rule whether imposed by any jurisdiction, government (or political sub-division or agency thereof), supranational body or other authority or supervisory organisation (whether local, national, European or international) and includes any of the same not having the force of law but which are customarily complied with by financial institutions generally;

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- (xx) a **liability** includes any loss, cost, claim, damage, expense, fine, penalty or other liability (including any liability to pay taxes) and **liable** shall be construed accordingly;
- (xxi) an **officer** includes any agent, director, employee, manager, adviser, trustee, lawyer, nominee, delegate, sub-delegate, representative or officer;
- (xxii) **perfection** of rights in relation to any asset includes the creation, maintenance, protection, improvement, enforcement, realisation or extension of such rights or any facilitation of or assistance with regard to the same and **perfect** or **perfected** shall be construed accordingly;
- (xxiii) **proceedings** includes any claim, suit, demand, arbitration, dispute, or other action, process or proceeding whether actual or threatened and whether or not in connection with any judgment, decree, order or other judicial determination (whether granted by a court, tribunal, pursuant to arbitration or otherwise) or any execution or enforcement of any of the same (including any action connected with any injunction, specific performance, attachment, damages or otherwise);
- (xxiv) a **provision** includes any covenant, term, condition, stipulation, clause, schedule, section, proviso, paragraph, representation, warranty or other provision;
- (xxv) a **person** includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, fund, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality;
- (xxvi) a **regulation** includes any regulation, rule, order, official directive, request or guideline (in each case, whether or not having the force of law but, if not having the force of law, being of a type with which any person to which it applies is accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (xxvii) a **right** includes any power, entitlement, benefit, interest, title, licence, remedy, option, privilege, reservation, easement, discretion, leasehold interest, tracing right, voting right or right to any proceeds of sale (whether actual or contingent, present or future) or any claim, whether for damages or otherwise, relating to any of the same and the proceeds of any disposition of any of the same;
- (xxviii) a currency is a reference to the lawful currency for the time being of the relevant country;
- (xxix) a Default being **outstanding** means that it has not been remedied or expressly waived in writing in accordance with Clause 27.4 (Waivers and remedies cumulative);
- (xxx) a provision of law is a reference to that provision as extended, applied, amended or re enacted and includes any subordinate legislation;
- (xxxi) a Clause, a Subclause or a Schedule is a reference to a clause or subclause of, or a schedule to, this Agreement;
- (xxxii) a Party or any other person includes its successors in title, permitted assigns and permitted transferees;

- (xxxiii) a Finance Document or other document includes (without prejudice to any prohibition on amendments) all amendments (however fundamental) to that Finance Document or other document, including any amendment providing for any increase in the amount of a facility or any additional facility; and
- (xxxiv) a time of day is a reference to Hong Kong time.
- (b) Unless the contrary intention appears, a reference to a **month** or **months** is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month or the calendar month in which it is to end, except that:
- (i) if the numerically corresponding day is not a Business Day, the period will end on the next Business Day in that month (if there is one) or the preceding Business Day (if there is not);
 - (ii) if there is no numerically corresponding day in that month, that period will end on the last Business Day in that month; and
 - (iii) notwithstanding subparagraph (i) above, a period which commences on the last Business Day of a month will end on the last Business Day in the next month or the calendar month in which it is to end, as appropriate.
- (c) Unless expressly provided to the contrary in a Finance Document, a person who is not a party to a Finance Document may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999 and, notwithstanding any term of any Finance Document, no consent of any third party is required for any amendment (including any release or compromise of any liability) or termination of that Finance Document.
- (d) Unless the contrary intention appears:
- (i) a reference to a Party will not include that party if it has ceased to be a party under this Agreement;
 - (ii) a word or expression used in any other Finance Document or in any notice given in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement;
 - (iii) if there is an inconsistency between this Agreement and another Finance Document, this Agreement will prevail unless that other Finance Document is a Subordination Agreement, in which case that Subordination Agreement will prevail;
 - (iv) any obligation of an Obligor under the Finance Documents which is not a payment obligation remains in force for so long as any payment obligation of an Obligor is or may be or is capable of becoming outstanding under the Finance Documents;
 - (v) any obligation of an Obligor under the Finance Documents includes an obligation on that Obligor not to contract or agree to do something or not to do something which would breach that first obligation unless performance of such contract or agreement is conditional on the occurrence of the Senior Discharge Date or on the approval of the Lenders or the Majority Lenders (as required under this Agreement);
 - (vi) references to the singular shall include the plural and *vice versa*;
 - (vii) the words “without limitation” shall be deemed to follow the words “include”, “includes”, or “including” wherever the same appear herein; and

(viii) the words “hereby”, “hereunder”, “herein”, “herewith”, “hereby” or “hereof” are references to the entire Agreement.

(e) No part of this Agreement is intended to or shall create a registrable Security Interest.

(f) The index to and headings in this Agreement do not affect its interpretation.

2. FACILITIES

2.1 Term Loan Facility

(a) Subject to the terms of this Agreement, the Lenders make available to the Borrower a term loan facility in an aggregate amount equal to the Total Term Loan Commitments.

(b) The Term Loan Facility shall be made available in two parts, the first in the amount of USD21,332,681.00 on Closing and the second in the amount of USD3,667,319.00 within Availability Period of the Term Loan Facility.

2.2 Revolving Credit Facility

Subject to the terms of this Agreement, the Lenders make available to the Borrower a revolving credit facility in an aggregate amount equal to the Total Revolving Credit Commitments.

2.3 Nature of a Finance Party’ s rights and obligations

Unless all the Finance Parties agree otherwise:

- (a) the obligations of a Finance Party under the Finance Documents are several;
- (b) failure by a Finance Party to perform its obligations does not affect the obligations of any other Party under the Finance Documents;
- (c) no Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents;
- (d) the rights of a Finance Party under the Finance Documents are separate and independent rights;
- (e) a Finance Party may, except as otherwise stated in the Finance Documents, separately enforce those rights; and
- (f) a debt arising under the Finance Documents to a Finance Party is a separate and independent debt.

3. PURPOSE

3.1 Term Loan

Each Term Loan may only be used in or towards the repayment of the EPC Facilities and, in the case of the second Term Loan, the repayment of the Capex Loan as agreed.

3.2 Revolving Credit Loans

(a) Each Revolving Credit Loan may only be used in or towards:

- (i) in the case of the first Revolving Credit Loan, the repayment of the EPC Facilities as agreed; or

(ii) in the case of any subsequent Revolving Credit Loan, the working capital requirements of the Group.

(b) No Revolving Credit Loan may be used for payment of interest on Term Loans or repayment or prepayment of Term Loans.

3.3 No obligation to monitor

No Finance Party is bound to monitor or verify the utilisation of a Facility and no Finance Party will be responsible for, or for the consequences of, such utilisation.

4. CONDITIONS PRECEDENT

4.1 Conditions precedent documents

- (a) The first Term Loan and the first Revolving Credit Loan will not be made available until the Facility Agent has received all of the documents and evidence set out in Part 1 of Schedule 2 (Conditions Precedent Documents) in form and substance satisfactory to the Facility Agent.
- (b) The second Term Loan will not be made available until the Facility Agent has notified the Company and the Lenders that it has received all of the documents and evidence set out in Part 2 of Schedule 2 (Conditions Precedent Documents) in form and substance satisfactory to the Facility Agent.
- (c) The Facility Agent shall give notice to the Company and the Lenders promptly upon receipt of the necessary documents and evidence, and that the conditions referred to in (a) and (b) above have been satisfied.

4.2 Further conditions precedent

The obligations of each Lender to participate in any Revolving Credit Loan subsequent to the drawdown referred to in Clause 5.1(a) are subject to the further conditions precedent that on both the date of the Request and the Utilisation Date for that Loan:

- (a) the Repeating Representations are correct in all respects; and
- (b) no Default is outstanding or would result from the Loan.

4.3 Maximum number

Unless the Facility Agent agrees, a Request may not be given if, as a result of making the utilisation requested, there would be more than five Revolving Credit Loans outstanding.

4.4 Target Group

For the purposes of determining whether or not the conditions precedent in Clause 4.2 (Further conditions precedent) have been met on the Utilisation Date (or requested Utilisation Date) for the first Loan, references in Clauses 16 (Representations and warranties), 17 (Information covenants), 18 (Financial covenants), 19 (General covenants) and 20 (Default) to the Group and to members of the Group shall be construed so as to include references to the Target Group and members of the Target Group.

5. UTILISATION - LOANS

5.1 Drawdown

- (a) Upon the Facility Agent giving notice of satisfaction of the conditions precedent referred to in Clause 4.1(a) the Borrower shall be deemed to request drawdown of the amount of USD21,332,681.00 under the Term Loan Facility and the amount of USD5,000,000 under the Revolving Credit Loan Facility, to be paid in accordance with Clause 5.3(a).
- (b) Upon the Facility Agent giving notice of satisfaction of the conditions precedent referred to in Clause 4.1(b) the Borrower shall be deemed to request drawdown of the amount of USD3,667,319.00 under the Term Loan Facility, to be paid in accordance with Clause 5.3(b).
- (c) The Borrower may borrow a Revolving Credit Loan after repayment of the initial Revolving Credit Loan by delivering to the Facility Agent a duly completed Request.
- (d) Unless the Facility Agent otherwise agrees, the latest time for receipt by the Facility Agent of a duly completed Request is 11.00 a.m. (Hong Kong time) one Business Day before the Rate Fixing Day for the proposed borrowing or, in respect of a Loan to be made at Closing, by such time as the Original Lenders and the Facility Agent may agree with the Company.
- (e) Each Request is irrevocable.

5.2 Requests for subsequent Revolving Credit Loans

A Request for a Revolving Credit Loan will not be regarded as having been duly completed unless:

- (a) the Utilisation Date is a Business Day falling within the relevant Availability Period;
- (b) the amount of Revolving Credit Loan requested is:
 - (i) a minimum of USD1,000,000 and an integral multiple of USD100,000; or
 - (ii) the maximum undrawn amount available under the relevant Facility on the proposed Utilisation Date; and
- (c) the proposed Term complies with this Agreement.

5.3 Advance of Loan

- (a) The amounts drawn down under Clause 5.1(a) shall be paid to Standard Chartered Bank (Hong Kong) Limited in its capacity as administrative agent for the Lenders under the EPC Credit Agreement in repayment of the EPC Facilities.
- (b) The amount drawn down under Clause 5.1(b) shall be paid to Standard Chartered Bank (Hong Kong) Limited in its capacity as administrative agent under Capex Facility Agreement in repayment of the Capex Loan.
- (c) The Facility Agent must promptly notify each Lender of the details of any Request for a Revolving Credit Loan and the amount of its share in that Loan.
- (d) The amount of each Lender' s share of each Loan will be equal to its Pro Rata Share on the proposed Utilisation Date.
- (e) No Lender is obliged to participate in a Revolving Credit Loan if as a result:
 - (i) its share in the outstanding Loans under the Revolving Credit Facility would exceed its Commitment for that Facility; or

(ii) the outstanding Loans under the Revolving Credit Facility would exceed the Total Commitments for that Facility.

(f) If the conditions set out in this Agreement have been met, each Lender must make its share in the Loan available to the Facility Agent for the Borrower on the Utilisation Date.

6. REPAYMENT

6.1 Repayment of Term Loans

(a) The Borrower must repay the Term Loans made to it in full by one or more instalments on the dates and in the amounts specified below (or, if the actual outstanding amount of the Term Loans is less than the amounts specified below, in that amount).

Repayment Date	Term Loan (USD)
1 December 2006	7,500,000
1 December 2007	7,500,000
1 December 2008	7,500,000
15 March 2009	2,500,000
	25,000,000

(b) Any amounts repaid under paragraph (a) above may not be re-borrowed.

6.2 Repayment of Revolving Credit Loans

(a) The Borrower must repay each Revolving Credit Loan made to it in full on its Maturity Date.

(b) Subject to the other terms of this Agreement, any amounts repaid under paragraph (a) above may be re-borrowed.

(c) Without prejudice to the Borrower's obligation to repay the full amount of each Revolving Credit Loan on its Maturity Date, on the date of any Rollover Credit drawn by the Borrower, the amount of the Revolving Credit Loan to be repaid and the amount to be drawn down by the Borrower on such date in the same currency shall be netted off against each other so that the amount of cash which the Borrower is actually required to pay or, as the case may be, the amount of cash which the Lenders are actually required to pay to the Borrower, shall be the net amount.

(d) Any amount of any Revolving Credit Loan still outstanding on the Final Maturity Date shall be repaid on that Final Maturity Date.

7. PREPAYMENT AND CANCELLATION

7.1 Mandatory prepayment - illegality

(a) A Lender must promptly notify the Facility Agent and the Company if it becomes aware that it is unlawful in any applicable jurisdiction for that Lender to perform any of its obligations under a Finance Document or to fund or maintain its share in any Loan, and its efforts to mitigate the effect of such illegality have not been successful.

- (b) After notification under paragraph (a) above the Facility Agent must notify the Company and:
 - (i) the Borrower must repay or prepay the share of that Lender in each Loan utilised by it on the date specified in paragraph (c) below; and
 - (ii) the Commitments of that Lender will be immediately cancelled.
- (c) The date for repayment or prepayment of a Lender' s share in a Loan pursuant to this Subclause will be:
 - (i) the last day of the current Term of that Loan; or
 - (ii) if earlier, the date specified by the Lender in the notification under paragraph (a) above and which must not be earlier than the last day of any applicable grace period allowed by law.

7.2 Mandatory prepayment - change of control or sale of business

- (a) For the purposes of this Clause:

a **change of control** occurs if:

- (i) the Investor ceases to be a direct or indirect wholly-owned Subsidiary of Merix Corporation or of a company that wholly-owns Merix Corporation.
- (ii) the Investor does not or ceases to hold legally and beneficially, and have the right to vote as they see fit one hundred per cent. of the issued share capital of the Company.
- (iii) the Investor does not or ceases to hold the right or ability (directly or indirectly) to direct management of the Company to comply with the type of material restrictions and obligations imposed in this Agreement or to determine directly or indirectly the composition of a majority of the board of directors (or like board) of the Company;
- (iv) the Company ceases to own all the shares in the Borrower;
- (v) the Investor does not or ceases to have the largest economic interest in the Company (excluding for this purpose the liability of the Company under the Finance Documents; or
- (vi) any person or a group of persons acting in concert (other than the Investor) gains control of the Company;

acting in concert means acting together pursuant to an agreement or understanding (whether formal or informal); and

control means the power to direct the management and policies of the Company whether by virtue of ownership of share capital, contract or otherwise.

- (b) If:
 - (i) any of the shares in any member of the Group are sold or issued by way of flotation, rights issue, public placing, listing or other public offering;
 - (ii) there is a sale of all or substantially all of the assets of the Group; or

(iii) a change of control occurs,

then

(A) the Total Commitments shall be cancelled; and

(B) all outstanding Loans, together with accrued and unpaid interest and all other amounts accrued and outstanding under the Finance Documents, shall become immediately due and payable.

7.3 Mandatory prepayment - Equity Issuance or Shareholder Loan

(a) In this Subclause:

Equity Issuance means any sale or issuance of capital stock or shares or any Equity Rights of any member of the Group.

Equity Rights means, with respect to any person, any subscriptions, options, warrants, commitments, pre-emptive rights or agreements of any kind (including any shareholders' or voting trust agreements) for the issuance, sale, registration or voting of, or securities convertible into, any additional shares of capital stock or shares of any class, or partnership or other ownership interests of any type in, such person.

Shareholder Loan means any advance to a member of the Group by a member of the Merix Group which is not a member of the Group.

- (b) Upon any Equity Issuance or Shareholder Loan, the Company must apply and the Company must procure the application of an amount equal to the aggregate amount of the proceeds of the Equity Issuance or Shareholder Loan in or towards prepaying the Loans, except to the extent that such proceeds are to pay Capital Expenditure permitted under Clause 18.1(b) or to fund the Group's working capital.
- (c) Any prepayment of a Loan under this Subclause must be made within three Business Days after receipt of the proceeds of the Equity Issuance.

7.4 Mandatory prepayment - disposals

(a) In this Subclause:

- (i) **Net Proceeds** in relation to any disposal of an asset or any claim under any Acquisition Document by a member of the Merix Group or any claim under any contract of insurance by a member of the Group, means the amount received in Cash or Cash Equivalents (or other instruments which upon receipt are readily convertible into Cash on reasonable commercial terms) by a member of the Group in respect of such disposal or claim:
- (A) including the amount of any intercompany loan repaid to continuing members of the Group;
 - (B) treating any amount owing to and set off by any purchaser of assets as consideration received in Cash;
 - (C) treating consideration initially received in a form other than Cash, Cash Equivalents or such other instruments as being received when and if that consideration is converted into Cash or Cash Equivalents or becomes readily so convertible on reasonable commercial terms;

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- (D) after deducting Taxes (and amounts reasonably reserved in respect of Taxes) payable by members of the Group in respect of that disposal or claim; and
- (E) after deducting proper costs and reasonable expenses incurred by members of the Group directly in connection with that disposal or claim.
- (ii) **Recovery Event** means:
- (A) the disposal of an asset to a person who is not a member of the Group, other than:
- I. where an asset (not being shares or any other ownership interest in a person) is to be (and is) replaced by another asset of a substantially similar type for use in the Group's business (being a fixed asset in the case of a disposal of a fixed asset) within 180 days of the date of disposal and pending such replacement the Net Proceeds of that disposal are deposited in a holding account;
 - II. any disposal referred to in Clause 19.6(b)(i), (iv), (vii), (viii), (ix) or (xi) (Disposals); or
 - III. where the Net Proceeds of the disposal are in an amount (when taken together with the Net Proceeds of any related disposal) which (calculated on the date of receipt) is less than USD50,000;
- (B) a claim by a member of the Merix Group under any of the Acquisition Documents, other than where the Net Proceeds of that claim are:
- I. to be (and are) applied within 180 days of receipt in meeting or rectifying the liability, loss or defect in respect of which they are recovered and pending such application the Net Proceeds are deposited in a holding account;
 - II. recovered on account of a working capital deficit as compared to a level agreed in the Acquisition Documents; or
 - III. in an amount (when taken together with the Net Proceeds derived from any related claim) which (calculated on the date of receipt) is less than USD50,000;
- (C) a claim by a member of the Group under any contract of insurance (other than in respect of third party liability policies), other than where the Net Proceeds are:
- I. to be (and are) applied within 180 days of the occurrence of the event giving rise to such claim in reinstating or replacing (on a like for like basis) any asset, or applied in defraying the loss or liability, to which the claim relates and pending such application the Net Proceeds are deposited in a holding account; or
 - II. in an amount (when taken together with the value of any related claims) which (calculated on the date of receipt) is less than USD50,000.

- (b) Subject to Clause 7.7(e) (Payment into a holding account or a mandatory prepayment account), if the aggregate amount of Net Proceeds from Recovery Events is equal to or exceeds USD100,000 (the Threshold Amount) during any annual Accounting Period of the Company, the Borrower must immediately apply and the Company must procure the application of an amount equal to the aggregate amount of such Net Proceeds, including the Threshold Amount, in or towards prepaying the Loans.
- (c) Any prepayment of a Loan under this Subclause must be made:
- (i) on or before the last day of the Term of that Loan in which the relevant Net Proceeds were received or recovered; or
 - (ii) (in the case of Net Proceeds already deposited in a holding account under subparagraph (a)(ii) above) on or before the last day of the Term of that Loan in which the relevant time limit expired.

7.5 Mandatory prepayment - Excess Cashflow

- (a) If the annual audited consolidated Accounts of the Company demonstrate that the Group has Excess Cashflow during the annual Accounting Period to which such Accounts relate, the Borrower must apply and the Company must procure the application of an amount equal to thirty six point five-nine per cent. (36.59%) of that Excess Cashflow towards prepaying the Loans.
- (b) An amount equal to any prepayment under this Subclause must be paid to the Facility Agent within seven months after the relevant Accounting Date and the prepayment must be made on or before the last day of the Term(s) of the Loans current when such payment is made, pending which an amount equal to the amount to be prepaid must be deposited in a mandatory prepayment account.

7.6 Mandatory prepayment - Acquisition Costs

- (a) The Company must supply to the Facility Agent, or procure its Affiliate to supply to the Facility Agent, a statement of all amounts and payees of Acquisition Costs on or before the last Business Day of the seventh month after Closing.
- (b) If the Acquisition Costs due and payable within six months after the Closing Date are less than USD4,750,000, the Company must pay, or procure its Affiliate to pay, the amount by which the Acquisition Costs are less than USD5,000,000 to be applied by the Company towards prepaying the Loans. The statement of Merix Corporation of the elements included in calculating the Acquisition Costs and the amount thereof shall be final, binding and conclusive on all Parties.
- (c) An amount equal to any prepayment under this Subclause must be paid to the Facility Agent on or before the last day of the Term(s) of the Loans first ending on or after the seventh month after the Closing Date, to be deposited pending prepayment in a mandatory prepayment account, if appropriate in accordance with Clause 7.7(b).

7.7 Payment into a holding account or a mandatory prepayment account

- (a) In this Clause:
- (i) **holding account** means an interest bearing account in the name of the Borrower with the Facility Agent held in Hong Kong, governed by Hong Kong law and subject to a first-ranking floating Security Interest in favour of the Finance Parties; and

- (ii) **mandatory prepayment account** means an interest bearing account in the name of the Borrower with the Facility Agent held in Hong Kong, governed by Hong Kong law and subject to a first-ranking fixed Security Interest in favour of the Finance Parties.
- (b) Subject to paragraph (e) below, when it is established that the Borrower will be required to prepay Loans on the last day of the then current Term(s) for those Loans, the Borrower must and the Company must procure that the Borrower does (unless the relevant Net Proceeds are already deposited in a holding account under Clause 7.4(a)(ii) (Mandatory prepayment–disposals)) promptly deposit in a mandatory prepayment account an amount equal to the amounts to be prepaid unless the Company, on giving not less than five Business Days’ notice to the Facility Agent (which notice the Facility Agent shall promptly give to the Lenders), specifies that the Borrower intends to prepay the relevant amount within five Business Days in which case the prepayment shall (subject to the other provisions of this Agreement) be made on the date specified in such notice.
- (c) The Borrower irrevocably authorises the Facility Agent to apply any amount deposited with it under paragraph (b) towards prepayment of the Loans on the last day of the relevant Term(s) or earlier if the Company so directs.
- (d) Amounts standing to the credit of a holding account may only be:
- (i) used to prepay Loans;
 - (ii) (at the discretion of the Majority Lenders) used to pay any other amounts due and payable (but unpaid) under the Finance Documents; or
 - (iii) withdrawn to fund the replacement or application envisaged in Clause 7.4(a)(ii) (Mandatory prepayment–disposals).
- (e) Amounts standing to the credit of a mandatory prepayment account may only be:
- (i) used to prepay Loans; or
 - (ii) (at the discretion of the Majority Lenders) used to pay any other amounts due and payable (but unpaid) under the Finance Documents.
- (f) The Borrower shall not be obliged to (and the Company shall not be obliged to ensure that the Borrower does) prepay any Loan pursuant to Clause 7.4 (Mandatory prepayment–disposals) if and to the extent that (but only for so long as) it is illegal to do so and the relevant Obligors, having used all reasonable endeavours to overcome such illegality, have been unable to remove such illegality. If the illegality relates only to the prepayment of certain Loans then such amount shall be applied *pro rata* in prepayment of the other Loans and otherwise in accordance with Clause 7.11 (Application between Term Loan Facilities and Revolving Credit Facility).

7.8 Voluntary prepayment

The Borrower may, by giving not less than five Business Days’ prior notice to the Facility Agent, prepay (or procure prepayment of) any Loan at any time in whole or in part.

7.9 Automatic cancellation

The Commitments of each Lender under each Facility will be automatically cancelled at the close of business in Hong Kong on the last day of the Availability Period for that Facility to the extent undrawn at that date.

7.10 Voluntary cancellation

- (a) The Company may, by giving not less than three Business Days' prior notice to the Facility Agent, cancel the unutilised amount of the Total Revolving Credit Commitments in whole or in part.
- (b) Partial cancellation of the Commitments under any Facility pursuant to this Subclause must be in a minimum amount of USD500,000 and an integral multiple of USD100,000 or such lesser amount as may be undrawn and uncanceled or such other amount as may be agreed by the Facility Agent (acting on the instructions of the Majority Lenders).
- (c) Any cancellation in part of the Commitments under any Facility pursuant to this Subclause will be applied against the Commitment of each Lender in that Facility *pro rata*.

7.11 Application between Term Loan Facilities and Revolving Credit Facility

- (a) Any amount to be applied in prepayment of Loans must be applied:
 - (i) **first**, in prepayment of Term Loans; and
 - (ii) **second**, in prepayment of Revolving Credit Loans.
- (b) Where a mandatory or involuntary prepayment of a Revolving Credit Loan is required but there is no Revolving Credit Loan to be prepaid, the Revolving Credit Commitment will be reduced by the amount which would have been required to be applied in prepayment of the Revolving Credit Loans had they been outstanding at that time.

7.12 Partial prepayment of Term Loans

- (a) Any prepayment of a Term Loan under this Clause 7 will be applied against the remaining Repayment Instalments in inverse order of maturity.
- (b) No amount of a Term Loan prepaid under this Agreement may subsequently be re-borrowed.

7.13 Re-borrowing of Revolving Credit Loans

Any voluntary prepayment of a Revolving Credit Loan under Clause 7.8 (Voluntary prepayment) may be re-borrowed on the terms of this Agreement, unless the Company has elected to cancel the Revolving Credit Commitments in accordance with Clause 7.10 (Voluntary cancellation). Any other prepayment of a Revolving Credit Loan may not be re-borrowed.

7.14 Miscellaneous provisions

- (a) Any notice of prepayment and/or cancellation under this Agreement is irrevocable and must specify the relevant date(s) and the affected Loans and Commitments. The Facility Agent must notify the Lenders promptly of receipt of any such notice.
- (b) All prepayments under this Agreement must be made with accrued interest on the amount prepaid. No premium or penalty is payable in respect of any prepayment except for Break Costs.
- (c) The Majority Lenders may agree a shorter notice period for a voluntary prepayment or a voluntary cancellation.
- (d) No prepayment or cancellation is allowed except in accordance with the express terms of this Agreement.
- (e) No amount of the Total Commitments cancelled under this Agreement may subsequently be reinstated.

8. INTEREST

8.1 Calculation of interest

The rate of interest on each Loan for each Term is the percentage rate per annum equal to the aggregate of:

- (a) the Margin applicable as at the first day of the relevant Term; and
- (b) LIBOR.

8.2 Payment of interest

Except where it is provided to the contrary in this Agreement, the Borrower must pay accrued interest on each Loan made to it on the last day of each Term and, if the Term is longer than three months, on the date falling at each three-monthly interval after the first day of that Term.

8.3 Margin adjustments

- (a) The Margin for the first twelve months commencing on Closing Date will be 2.500 per cent. per annum.
- (b) The Company must supply to the Facility Agent a Margin Certificate within 45 days of the end of each quarterly Accounting Period, beginning with the Accounting Period ending on the July 2006 Accounting Date.
- (c) A Margin Certificate must specify the Leverage Ratio for the four quarterly Accounting Periods ending on the most recent Accounting Date and be signed by the Chief Financial Officer.
- (d) Subject to paragraphs (e), (f), (g) below, the Margin will be determined by reference to the table below and the information set out in the relevant Margin Certificate with effect from the commencement of each Term starting after the date of delivery of that Margin Certificate.

Column 1 Leverage Ratio	Column 2 Margin (per cent. per annum)
Less than 2.00	2.125 %
2.00 or greater and less than 2.50	2.375 %
2.50 or greater and less than 3.00	2.625 %
3.00 or greater	2.875 %

- (e) For so long as:
 - (i) the Company is in default of its obligation under this Agreement to provide a Margin Certificate; or
 - (ii) an Event of Default is outstanding,

the applicable Margin for each Loan will be 2.875%.

- (f) If the applicable Margin has been determined under this Subclause in reliance on a Margin Certificate (or unaudited Accounts) but the Accounts supplied under Clause 17.1(a)(i), (iii) and (iv) for the period covered by the relevant Margin Certificate show that a higher or lower Margin applies, the applicable Margin will instead be that calculated by reference to such Accounts. If, in this event, any amount of interest has been paid by the Borrower on the basis of the relevant Margin Certificate:
- (i) the Borrower must immediately pay to the Facility Agent any shortfall in that amount as compared to that which would have been paid to the Lenders if the applicable Margin for the relevant Facilities had been calculated by reference to the relevant Accounts; and
 - (ii) any overpayment in that amount as compared to that which would have been paid to the Lenders if the applicable Margin for the relevant Facilities had been calculated by reference to the relevant Accounts may be deducted from the next payment of interest due.
- (g) Any moneys received or recovered as a result of an adjustment to the Margin pursuant to this Subclause shall be reimbursed on a *pro rata* basis amongst the Lenders participating in the relevant Loans as at the date of such receipt or recovery.

8.4 Interest on overdue amounts

- (a) If an Obligor fails to pay any amount payable by it under the Finance Documents, it must immediately on demand by the Facility Agent pay interest on the overdue amount from its due date up to the date of actual payment, both before, on and after judgment.
- (b) Interest on an overdue amount is payable at a rate determined by the Facility Agent to be two per cent. per annum above the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan and in the same currency as the overdue amount. For this purpose, the Facility Agent may (acting reasonably):
- (i) select successive Terms for the overdue amount of any duration up to three months; and
 - (ii) determine the appropriate Rate Fixing Day for that Term.
- (c) Notwithstanding paragraph (b) above, if the overdue amount is a principal amount of a Loan and becomes due and payable prior to the last day of its current Term, then:
- (i) the first Term for that overdue amount will be the unexpired portion of that Term; and
 - (ii) the rate of interest on the overdue amount for that first Term will be two per cent. per annum above the rate then payable on that Loan.

After the expiry of the first Term for that overdue amount, the rate on the overdue amount will be calculated in accordance with paragraph (b) above.

- (d) Interest (if unpaid) on an overdue amount will be compounded with that overdue amount at the end of each of its Terms but will remain immediately due and payable.

8.5 Notification of rates of interest

The Facility Agent must promptly notify each relevant Party of the determination of a rate of interest under this Agreement.

9. TERMS

9.1 Selection - Term Loans

- (a) Each Term Loan has successive Terms.
- (b) The Term Loan to be drawn down in accordance with Clause 5.1(a) shall have a Term of two months.
- (c) The Borrower must select any subsequent Term(s) in an irrevocable notice received by the Facility Agent not later than 11.00 a.m. (Hong Kong time) one Business Day before the Rate Fixing Day for that Term. Each Term for a Term Loan will start on its Utilisation Date or on the expiry of its preceding Term.
- (d) If the Borrower fails to select a Term for an outstanding Term Loan under paragraph (c) above, that Term will, subject to the other provisions of this Clause, be three months.
- (e) Subject to the following provisions of this Clause, each Term for a Term Loan will be one, two, three or six months or any other period agreed by the Company and the Lenders.

9.2 Selection - Revolving Credit Loans

- (a) Each Revolving Credit Loan has one Term only.
- (b) The Revolving Credit Loan to be drawn down in accordance with Clause 5.1(a) shall have a Term of two months.
- (c) The Borrower must select each subsequent Term for a Revolving Credit Loan in the relevant Request.
- (d) Subject to the following provisions of this Clause, each Term for a Revolving Credit Loan will be one, two, three or six months or any other period agreed by the Company and the Lenders.

9.3 No overrunning

- (a) If a Term for any Term Loan would otherwise overrun the date for payment of a Repayment Instalment for that Term Loan, it will be shortened so that it ends on that date.
- (b) If a Term for any Revolving Credit Loan would otherwise overrun the Final Maturity Date, it will be shortened so that it ends on that date.

9.4 Other adjustments

The Facility Agent and the Company may enter into such other arrangements as they may agree for the adjustment of Terms and the consolidation and/or splitting of Loans, but no Term in excess of six months may be agreed by the Facility Agent without the prior consent of all the Lenders.

9.5 Notification

The Facility Agent must notify each relevant Party of the duration of each Term promptly after ascertaining its duration.

9.6 Limitation of Terms

The number of Terms for Term Loans and Revolving Credit Loans at any one time may not exceed six in total.

10. MARKET DISRUPTION

10.1 Failure of a Reference Bank to supply a rate

If LIBOR is to be calculated by reference to the Reference Banks but a Reference Bank does not supply a rate by 12.00 noon (London time) on a Rate Fixing Day, the applicable LIBOR will, subject as provided below, be calculated on the basis of the rates of the remaining Reference Banks.

10.2 Market disruption

(a) In this Clause, each of the following events is a market disruption event:

- (i) LIBOR is to be calculated by reference to the Reference Banks but no, or (where there is more than one Reference Bank) only one, Reference Bank supplies a rate by 12.00 noon (London time) on the Rate Fixing Day; or
- (ii) the Facility Agent receives by close of business (London time) on the Rate Fixing Day notification from Lenders whose shares in the relevant Loan exceed 30 per cent. of that Loan that the cost to them of obtaining matching deposits in the relevant interbank market is in excess of LIBOR for the relevant currency and Term.

(b) The Facility Agent must promptly notify the Company and the Lenders of a market disruption event.

(c) After notification under paragraph (b) above, the rate of interest on each Lender' s share in the affected Loan for the relevant Term will, subject to Clause 10.3, be the aggregate of the applicable:

- (i) Margin; and
- (ii) rate notified to the Facility Agent by that Lender as soon as practicable, and in any event before interest is due to be paid in respect of that Term, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its share in that Loan from whatever source it may reasonably select.

10.3 Alternative basis of interest or funding

(a) If a market disruption event occurs and the Facility Agent or the Company so requires, the Company and the Facility Agent must enter into negotiations for a period of not more than 30 days with a view to agreeing an alternative basis for determining the rate of interest and/or funding for the affected Loan which alternative basis may (without limitation) include alternative interest periods or alternative rates of interest but shall include a margin above the cost of funds to the Finance Parties equivalent to the applicable Margin.

(b) Any alternative basis agreed will be, with the prior consent of all the Lenders, binding on all the Parties.

11. TAXES

11.1 Tax gross-up

- (a) Each Obligor must make all payments to be made by it under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) If an Obligor is aware that an Obligor must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction), it must promptly notify the Facility Agent. The Facility Agent must then promptly notify the affected Parties.
- (c) Except as provided below, if a Tax Deduction is required by law to be made by an Obligor or the Facility Agent, the amount of the payment due from the Obligor will be increased to an amount which (after making the Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) If an Obligor is required to make a Tax Deduction, that Obligor must make the minimum Tax Deduction allowed by law and must make any payment required in connection with that Tax Deduction within the time allowed by law.
- (e) Within 30 days of making either a Tax Deduction or a payment required in connection with a Tax Deduction, the Obligor making that Tax Deduction or payment must deliver to the Facility Agent for the relevant Finance Party evidence satisfactory to that Finance Party (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.

11.2 Tax indemnity

- (a) Except as provided below, each Obligor must indemnify a Finance Party against any loss or liability which that Finance Party (in its absolute discretion) determines will be or has been suffered (directly or indirectly) by that Finance Party for or on account of Tax in relation to a payment received or receivable (or any payment deemed to be received or receivable) from that Obligor under a Finance Document.
- (b) Paragraph (a) above does not apply to any Tax assessed on a Finance Party under the laws of the jurisdiction in which:
 - (i) that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party has a Facility Office and is treated as resident for tax purposes; or
 - (ii) that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,if that Tax is imposed on or calculated by reference to the net income received or receivable by that Finance Party. However, any payment deemed to be received or receivable, including any amount treated as income but not actually received by the Finance Party, such as a Tax Deduction, will not be treated as net income received or receivable for this purpose.
- (c) A Finance Party making, or intending to make, a claim under paragraph (a) above must promptly notify the Company of the event which will give, or has given, rise to the claim.

11.3 Tax Credit

If an Obligor makes a Tax Payment and the relevant Finance Party (in its absolute discretion) determines that:

- (a) a Tax Credit is attributable to that Tax Payment; and
- (b) it has used and retained that Tax Credit,

the Finance Party must pay an amount to the Obligor which that Finance Party determines (in its absolute discretion) will leave it (after that payment) in the same after-tax position as it would have been if the Tax Payment had not been required to be made by the Obligor.

11.4 Stamp taxes

The Company must pay and indemnify each Finance Party against any stamp duty, stamp duty land tax, registration or other similar Tax payable in connection with the entry into, performance or enforcement of any Finance Document.

11.5 Value added taxes

- (a) Any amount (including costs and expenses) payable under a Finance Document by an Obligor is exclusive of any value added tax or any other Tax of a similar nature which might be chargeable in connection with that amount. If any such Tax is chargeable, the Obligor must pay to the Finance Party (in addition to and at the same time as paying that amount) an amount equal to the amount of that Tax.
- (b) The obligation of any Obligor under paragraph (a) above will be reduced to the extent that the Finance Party determines (acting reasonably) that it is entitled to repayment or a credit in respect of the Tax.

12. INCREASED COSTS

12.1 Increased costs

Except as provided below in this Clause, the Company must pay to a Finance Party the amount of any Increased Cost incurred by that Finance Party or any of its Affiliates as a result of:

- (a) the introduction of, or any change in, or any change in the interpretation, administration or application of, any law or regulation; or
- (b) compliance with any law or regulation that comes into effect after the date of this Agreement.

12.2 Exceptions

The Company need not make any payment for an Increased Cost to the extent that the Increased Cost is:

- (a) compensated for under another Clause or would have been but for an exception to that Clause; or
- (b) attributable to a Finance Party or its Affiliate wilfully failing to comply with any law or regulation.

12.3 Claims

- (a) A Finance Party intending to make a claim for an Increased Cost must notify the Facility Agent of the circumstances giving rise to, and the amount of, the claim, following which the Facility Agent will promptly notify the Company.
- (b) Each Finance Party must, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Cost.

13. MITIGATION

13.1 Mitigation

- (a) Subject to paragraph (e) below, each Finance Party must, in consultation with the Company, mitigate any circumstances which arise and which result or would result in:
 - (i) any Tax Payment or Increased Cost being payable to that Finance Party; or
 - (ii) that Finance Party being able to exercise any right of prepayment and/or cancellation under this Agreement by reason of any illegality,by using reasonable endeavours to change its Facility Office, if such costs could be mitigated by so doing.
- (b) If in the opinion of such Finance Party, the cost referred in paragraph (a) above could not be mitigated by changing its Facility Office, then the Borrower may, at its sole expense and effort, upon notice to such Finance Party and the Facility Agent, require such Finance Party to transfer, without recourse (in accordance with and subject to the restrictions contained in Clause 28), all its interests, rights and obligations under the Finance Documents to a transferee that shall assume such obligations (which transferee may be another Finance Party, if a Finance Party accepts such transfer), provided that:
 - (i) the Borrower shall have received the prior written consent of the Facility Agent, which consent shall not unreasonably be withheld;
 - (ii) such Finance Party shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it thereunder, from the transferee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts); and
 - (iii) such transfer will result in a reduction in the costs referred to in Subclause (a) above.

A Finance Party shall not be required to make any such transfer if, prior thereto, as a result of a waiver by such Finance Party or otherwise, the circumstances entitling the Borrower to require such transfer cease to apply.

- (c) Paragraphs (a) and (b) above do not in any way limit the obligations of any Obligor under the Finance Documents.
- (d) The Company must indemnify each Finance Party for all proper costs and expenses reasonably incurred by that Finance Party as a result of any step taken by it under this Subclause.
- (e) A Finance Party is not obliged to take any step under this Subclause if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

13.2 Conduct of business by a Finance Party

No term of the Finance Documents will:

- (a) interfere with the right of any Finance Party to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it in respect of Tax or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (Tax or otherwise) or any computation in respect of Tax.

14. PAYMENTS

14.1 Place

Unless a Finance Document specifies that payments under it are to be made in another manner, all payments by a Party (other than the Facility Agent) under the Finance Documents must be made to the Facility Agent to its account at such office or bank in New York.

14.2 Funds

Payments under the Finance Documents must (unless otherwise expressly provided) be made to the Facility Agent for value on the due date at such times and in such funds as the Facility Agent may specify to the Party concerned as being customary at the time for the settlement of transactions in the relevant currency in the place for payment.

14.3 Distribution

- (a) Each payment received by the Facility Agent under the Finance Documents for another Party must, except as provided below, be made available by the Facility Agent to that Party by payment (as soon as practicable after receipt) to its account with such office or bank in the principal financial centre of the country of the relevant currency as it may notify to the Facility Agent for this purpose by not less than five Business Days' prior notice.
- (b) The Facility Agent may apply any amount received by it for an Obligor in or towards payment (as soon as practicable after receipt) of any amount due from that Obligor under the Finance Documents or in or towards the purchase of any amount of any currency to be so applied.
- (c) Where a sum is paid to the Facility Agent under this Agreement for another Party, the Facility Agent is not obliged to pay that sum to that Party until it has established that it has actually received it. However, the Facility Agent may assume that the sum has been paid to it, and, in reliance on that assumption, make available to that Party a corresponding amount. If it transpires that the sum has not been received by the Facility Agent, that Party must immediately on demand by the Facility Agent refund any corresponding amount made available to it together with interest on that amount from the date of payment to the date of receipt by the Facility Agent at a rate calculated by the Facility Agent, acting reasonably, to reflect its cost of funds.

14.4 Currency

- (a) Unless a Finance Document specifies that payments under it are to be made in a different manner, the currency of each amount payable under the Finance Documents is determined under this Subclause.

- (b) Interest is payable in the currency in which the principal amount in respect of which it is payable is denominated.
- (c) Amounts payable in respect of Taxes, fees, costs and expenses are payable in the currency in which they are incurred.
- (d) Each other amount payable under the Finance Documents is payable in U.S. Dollars.

14.5 No set-off or counterclaim

All payments made by an Obligor under the Finance Documents must be calculated and made without (and free and clear of any deduction for) set off or counterclaim.

14.6 Business Days

- (a) If a payment under the Finance Documents is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not) or whatever day the Facility Agent determines is market practice.
- (b) During any extension of the due date for payment of any principal under this Agreement interest is payable on that principal at the rate payable on the original due date.

14.7 Partial payments

- (a) If the Facility Agent receives a payment insufficient to discharge all the amounts then due and payable by the Obligors under the Finance Documents, the Facility Agent must apply that payment towards the obligations of the Obligors under the Finance Documents in the following order:
 - (i) **first**, in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Agents under the Finance Documents;
 - (ii) **second**, in or towards payment *pro rata* of any accrued interest or fees due but unpaid under this Agreement;
 - (iii) **third**, in or towards payment *pro rata* of any principal amount due but unpaid under this Agreement; and
 - (iv) **fourth**, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.
- (b) The Facility Agent must, if so directed by the Majority Lenders, vary the order set out in subparagraphs (a)(i) to (iv) above.
- (c) This Subclause will override any appropriation made by an Obligor.

14.8 Timing of payments

If a Finance Document does not provide for when a particular payment is due, that payment will be due within three Business Days of demand by the relevant Finance Party.

15. GUARANTEE AND INDEMNITY

15.1 Guarantee and indemnity

Each Guarantor jointly and severally and irrevocably and unconditionally:

- (a) guarantees to each Finance Party due and punctual performance by each Obligor of all its obligations under the Finance Documents;
- (b) undertakes with each Finance Party that, whenever an Obligor does not pay any amount when due under or in connection with any Finance Document, it must immediately on demand by the Facility Agent pay that amount as if it were the principal obligor in respect of that amount;
- (c) guarantees to the Administrative Agent (on behalf of the Finance Parties under the Capex Facility Agreement) due and punctual performance by Eastern Pacific Circuits Investments (Singapore) Pte. Ltd. (to be renamed Merix Holding (Singapore) Pte. Ltd.) of all its obligations under the Capex Facility Agreement;
- (d) undertakes with the Administrative Agent (on behalf of the Finance Parties under the Capex Facility Agreement) that, whenever Eastern Pacific Circuits Investments (Singapore) Pte. Ltd. (to be renamed Merix Holding (Singapore) Pte. Ltd.) does not pay any amount when due under or in connection with the Capex Facility Agreement, it must immediately on demand by the Administrative Agent pay that amount as if it were the principal obligor in respect of that amount; and
- (e) indemnifies each Finance Party and the Administrative Agent (on behalf of the Finance Parties under the Capex Facility Agreement) immediately on demand against any loss or liability suffered by that Finance Party or Finance Parties under the Capex Facility Agreement if any obligation expressed to be guaranteed by it is or becomes unenforceable, invalid or illegal; the amount of the loss or liability under this indemnity will be equal to the amount the party would otherwise have been entitled to recover.

15.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of all sums payable by any Obligor under the Finance Documents or by Eastern Pacific Circuits Investments (Singapore) Pte. Ltd. (to be renamed Merix Holding (Singapore) Pte. Ltd.) under the Capex Facility Agreement, regardless of any intermediate payment or discharge in whole or in part.

15.3 Reinstatement

- (a) If any discharge (whether in respect of the obligations of any Obligor or Eastern Pacific Circuits Investments (Singapore) Pte. Ltd. (to be renamed Merix Holding (Singapore) Pte. Ltd.) or any security for those obligations or otherwise) or arrangement is made in whole or in part on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation, administration or otherwise without limitation, the liability of each Guarantor under this Clause will continue or be reinstated as if the discharge or arrangement had not occurred.
- (b) Each Finance Party or the Administrative Agent (on behalf of the Finance Parties under the Capex Facility Agreement) may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

15.4 Waiver of defences

The obligations of each Guarantor under this Clause will not be affected by any act, omission or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Clause (whether or not known to it or any Finance Party or any Finance Party under the Capex Facility Agreement). This includes:

- (a) any time or waiver granted to, or composition with, any person;
- (b) any release of any person under the terms of any composition or arrangement;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any person;
- (d) any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- (f) any amendment (however fundamental) of a Finance Document, the Capex Facility Agreement or any other document or security;
- (g) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any Finance Document, the Capex Facility Agreement or any other document or security or the failure by any member of the Group to enter into or be bound by any Finance Document; or
- (h) any insolvency or similar proceedings.

15.5 Immediate recourse

- (a) Each Guarantor waives any right it may have of first requiring any Finance Party or Finance Party under the Capex Facility Agreement (or any trustee or agent on its behalf) to proceed against or enforce any other right or security or claim payment from any person or file any proof or claim in any insolvency, administration, winding-up or liquidation proceedings relative to any other Obligor or any other person before claiming from that Guarantor under this Clause.
- (b) This waiver applies irrespective of any law or any provision of a Finance Document or the Capex Facility Agreement to the contrary.

15.6 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents or by Eastern Pacific Circuits Investments (Singapore) Pte. Ltd. (to be renamed Merix Holding (Singapore) Pte. Ltd.) under or in connection with the Capex Facility Agreement have been irrevocably paid in full, each Finance Party or Finance Party under the Capex Facility Agreement (or any trustee or agent on its behalf) may with respect to any Guarantor and without affecting the liability of any Guarantor under this Clause:

- (i)
 - (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party or Finance Party under the Capex Facility Agreement (or any trustee or agent on its behalf) against those amounts; or

- (ii) apply and enforce them in such manner and order as it sees fit (whether against those amounts or otherwise); and
- (b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of that Guarantor's liability under this Clause.

15.7 Non-competition

Unless and until:

- (a) all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents or by Eastern Pacific Circuits Investments (Singapore) Pte. Ltd. (to be renamed Merix Holding (Singapore) Pte. Ltd.) under or in connection with the Capex Facility Agreement have been irrevocably paid in full; or
- (b) the Facility Agent otherwise directs prior to such payment in full,

no Guarantor shall exercise any right or remedy arising, after a claim has been made or by virtue of any payment or performance by it under this Clause, by reason of:

- (i) any subrogation to any rights, security or moneys held, received or receivable by any Finance Party or Finance Party under the Capex Facility Agreement (or any trustee or agent on its behalf);
- (ii) any right of contribution or indemnity in respect of any payment made or moneys received on account of that Guarantor's liability under this Clause;
- (iii) any right to claim, rank, prove or vote as a creditor of any Obligor or its estate in competition with any Finance Party or Finance Party under the Capex Facility Agreement (or any trustee or agent on its behalf); or
- (iv) any right to receive, claim or have the benefit of any payment, distribution or security from or on account of any Obligor, or exercise any right of set-off as against any Obligor.

Each Guarantor must hold in trust for and must immediately pay or transfer to the Facility Agent or the Administrative Agent (as the Facility Agent may direct) for the Finance Parties or the Finance Parties under the Capex Facility Agreement any payment or distribution or benefit of security received by it contrary to this Clause or in accordance with any directions given by the Facility Agent under this Clause provided that it is not intended by such obligations to create a security interest which requires registration.

15.8 Release of Guarantors' right of contribution

If any Guarantor ceases to be a Guarantor in accordance with the terms of the Finance Documents for the purpose of any sale or other disposal of that Guarantor:

- (a) that Guarantor will be released by each other Guarantor from any liability whatsoever to make a contribution to any other Guarantor arising by reason of the performance by any other Guarantor of its obligations under the Finance Documents; and
- (b) each other Guarantor will waive any rights it may have by reason of the performance of its obligations under the Finance Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any right of any Finance Party under any Finance Document or of any other security taken under, or in connection with, any Finance Document where the rights or security are granted by or in relation to the aspects of the retiring Guarantor.

15.9 Additional security

This guarantee is in addition to and is not in any way prejudiced by any other security now or subsequently held by any Finance Party or the Administrative Agent (on behalf of the Finance Parties under the Capex Facility Agreement).

15.10 Limitations

- (a) This guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of Section 76 of the Companies Act of Singapore or Section 47A of the Companies Ordinance of Hong Kong or any equivalent and applicable provisions under the laws of the jurisdiction of incorporation of the relevant Guarantor.
- (b) The obligations of any Additional Guarantor are subject to the limitations (if any) set out in the Accession Agreement executed by that Additional Guarantor.

15.11 Application

Until all amounts which may be or become payable by Eastern Pacific Circuits Investments (Singapore) Pte. Ltd. (to be renamed Merix Holding (Singapore) Pte. Ltd.) under or in connection with the Capex Facility Agreement have been irrevocably paid in full, any amount payable by a Guarantor under this Clause must be paid to the Facility Agent to be applied in the manner as agreed from time to time between the Administrative Agent and the Facility Agent.

16. REPRESENTATIONS AND WARRANTIES

16.1 Representations and warranties

Save where otherwise provided, the representations and warranties set out in this Clause are made to each Finance Party by each Obligor for itself and on behalf of each Subsidiary of that Obligor. References in this Clause to it or its include, unless the context otherwise requires, each Obligor and each Subsidiary of that Obligor.

16.2 Status

- (a) It is a limited liability company, duly incorporated and validly existing and (if applicable in its jurisdiction) in good standing under the laws of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being and will be conducted.

16.3 Powers and authority

It has the power to enter into and perform, and has taken all necessary action to authorise the entry into and performance of, the Transaction Documents to which it is or will be a party and the transactions contemplated by those Transaction Documents.

16.4 Legal validity

- (a) Each Transaction Document to which it is a party is legally binding, valid and, subject to the Reservations, enforceable obligation.

- (b) Each Security Document to which it is a party creates the Security Interests which that Security Document purports to create and such Security Interests are valid and effective.
- (c) Each Finance Document to which it is a party is in the proper form for its enforcement in the jurisdiction of its incorporation.

16.5 Non-conflict

The entry into and performance by it of, and the transactions contemplated by, the Transaction Documents to which it is or will be party do not and will not:

- (a) conflict with any law or regulation applicable to it;
- (b) conflict with its constitutional documents; or
- (c) conflict with any document which is binding upon it or any of its assets or constitute a default or termination event (however described) under any such document, in each case to an extent or in a manner which has a Material Adverse Effect or could result in any liability on the part of any Finance Party to any third party or require the creation of any Security Interest over any asset in favour of a third party.

16.6 No default

- (a) No Default is outstanding or is reasonably likely to result from the entry into, the performance of, or any transaction contemplated by, any Transaction Document.
- (b) No other event or circumstance is outstanding which constitutes (or with the expiry of a grace period, the giving of notice, the making of any determination or the satisfaction of any other applicable condition will constitute) a default or termination event (however described) or an event resulting in an obligation to create security under any document which is binding on it or any of its assets to an extent or in a manner which has a Material Adverse Effect.

16.7 Authorisations

Except for registration where required of each Security Document, all authorisations required by it:

- (a) in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, the Transaction Documents have been (or will at Closing be) obtained or effected (as appropriate) and are (or will at Closing be) in full force and effect; and
- (b) to carry on its business in the ordinary course and in all material respects as it is being conducted have been obtained or effected (as appropriate) and are in full force and effect.

16.8 Information

- (a) In the case of the Company and the Borrower only, as at the date of this Agreement and at Closing, in respect of the Information:
 - (i) all expressions of opinion, expectation, intention or policy were made after careful consideration and were fair and reasonable as at the date at which they are stated to be given and can be properly supported;
 - (ii) all forecasts and projections were prepared on the basis of recent historical information and assumptions which were fair and reasonable at that date and were not misleading in any material respect (it being recognised that projections and forecasts are not to be viewed as facts and that actual results may differ from projected or forecasted results);

- (iii) all other information was true and accurate in all material respects as at its date or (if appropriate) as at the date (if any) at which it is stated to be given;
 - (iv) there is no omission of any information the omission of which would make the Information untrue or misleading in any material respect;
 - (v) except to the extent indicated otherwise in the Information, nothing has occurred since the date the Information was provided which renders any of the material information, expressions of opinion or intention, projections or conclusions contained in the Information inaccurate or misleading (or in the case of expressions of opinion, conclusions or projections, other than fair and reasonable) in any material respect in the context of the transactions contemplated by the Acquisition Documents and the Finance Documents;
- (b)
- (i) all material information provided to a Finance Party by or on behalf of the Investor, the Company or the Borrower in connection with the Acquisition and/or the Target Group on or before the date of this Agreement and not superseded before that date (whether or not contained in the Information) is accurate and not misleading in any material respect;
 - (ii) all projections provided to any Finance Party on or before the date of this Agreement have been prepared in good faith on the basis of assumptions which were reasonable at the time at which they were prepared and supplied and were not misleading in any material respect; and
 - (iii) none of the Investor, the Company or the Borrower omitted to disclose any information which would make any of the information or projections referred to in subparagraphs (i) and (ii) above misleading in any material respect.

The Company and the Borrower may make specific written disclosures in reasonable detail to the Facility Agent (to be received by the Facility Agent at least five Business Days prior to the date of this Agreement) against paragraphs (a) and (b) above for the purpose of their repetition as at the date of this Agreement and paragraphs (a) and (b) will be deemed to be qualified by those written disclosures.

16.9 Financial statements

- (a) Its latest Accounts supplied under this Agreement:
- (i) have been prepared in accordance with the Accounting Standards consistently applied; and
 - (ii) fairly present in all material respects (if unaudited) its consolidated financial condition as at the Accounting Date to which they were drawn up, and the consolidated results of operations for the Accounting Period for which they were drawn up.
- (b) The budgets and forecasts supplied under this Agreement were arrived at after careful consideration, have been prepared in good faith on the basis of recent historical information and on the basis of assumptions which were reasonable as at the date they were prepared and supplied and were not misleading in any material respect.
- (c) Since the date of the latest Accounts delivered to the Facility Agent there has been no material adverse change in the assets or financial condition of the Group.

16.10 Litigation etc.

- (a) No litigation, arbitration, expert determination, alternative dispute resolution or administrative proceedings are current or, to its knowledge, pending or threatened, which have or, if adversely determined, would have a Material Adverse Effect or result in an uninsured liability against members of the Group in an amount which exceeds USD500,000.
- (b) It has not breached any law or regulation which breach would have a Material Adverse Effect.
- (c) No labour disputes are current or, to its knowledge, threatened which have or would have a Material Adverse Effect.

16.11 Intellectual Property Rights

Except where the failure to do so does not have a Material Adverse Effect, it:

- (a) is (or after Closing will be) the sole legal and beneficial owner of or has licensed to it on normal commercial terms all the Intellectual Property Rights which are material in the context of its business and which are required by it in order to carry on its business in all material respects as it is being conducted;
- (b) has taken all formal or procedural actions (including payment of fees) required to maintain those Intellectual Property Rights;
- (c) none of those Intellectual Property Rights is being infringed, nor (to its knowledge) is there any threatened infringement of any of those Intellectual Property Rights, in any material respect; and
- (d) does not, in carrying on its business, infringe any Intellectual Property Rights of any third party in any respect which has a Material Adverse Effect.

16.12 Environment

- (a) It has obtained all Environmental Approvals required for the carrying on of its business as currently conducted and has at all times complied with:
 - (i) the terms and conditions of such Environmental Approvals; and
 - (ii) all other applicable Environmental Laws,

where, in each case, if not obtained or complied with the failure or its consequences would have a Material Adverse Effect. There are to its knowledge no circumstances that may prevent or interfere with such compliance in the future.

- (b) There is no Environmental Claim pending or formally threatened and there are no past or present acts, omissions, events or circumstances that would form, or are reasonably likely to form, the basis of any Environmental Claim (including any arising out of the generation, storage, transport, disposal or release of any dangerous substance) against any member of the Group which, if adversely determined, would have a Material Adverse Effect.

16.13 Structure Memorandum

In the case of the Company and the Borrower only and as at the date of this Agreement and Closing, the Structure Memorandum:

- (a) shows all members of the Group (and all Joint Ventures and minority interests held by any member of the Group);

- (b) contains descriptions which in all material respects are true, complete and correct of the corporate ownership structure of the Group (including all minority interests in any member of the Group), as it will be immediately after Closing; and
- (c) shows all loans (of USD100,000 or more) between members of the Group and between any member of the Group and a member of the Merix Group as they will be immediately after Closing.

16.14 Representations and warranties on the Acquisition Documents

- (a) To the best of its knowledge, as at the date of this Agreement and Closing, no representation or warranty (as qualified by any related disclosure letter or schedule to the Acquisition Documents) given by any party in the Acquisition Documents is untrue or misleading in any material respect.
- (b) The Acquisition Documents contain all the terms of the Acquisition and the transactions referred to in the Acquisition Documents.
- (c) The Seller is not receiving any payment or other consideration in connection with the Acquisition from any member of the Merix Group other than as provided in the Acquisition Documents.

16.15 The Borrower

In the case of the Company and Borrower only:

- (a) except as may arise under the Transaction Documents and for Acquisition Costs, before Closing none of the Company, the Borrower or their Subsidiaries (other than the Target Group) has traded or incurred any material liabilities or commitments (actual or contingent, present or future);
- (b) the Company is the legal and beneficial owner of all of the shares in the Borrower and the Borrower is the legal and beneficial owner of all the shares in its Subsidiaries (other than the Target Group); and
- (c) at Closing, the Borrower will become the beneficial owner and be unconditionally entitled to become the legal and beneficial owner of all of the Target Shares.

16.16 Assets

- (a) After Closing it will be the sole legal and beneficial owner of the material assets which are to be transferred to it under the Acquisition Documents.
- (b) It is (or after Closing will be) the sole legal and beneficial owner of the shares and other material assets which it charges or purports to charge under any Security Document.
- (c) It owns or has leased or licensed to it all material assets necessary to conduct its business as it is being or will be conducted.

16.17 Financial Indebtedness and Security Interests

- (a) No member of the Group has any Financial Indebtedness outstanding which is not permitted by the terms of this Agreement.

- (b) No Security Interest exists over the whole or any part of the assets of any member of the Group except for those permitted under Clause 19.5 (Negative pledge).

16.18 Insurance

- (a) There is no outstanding insured loss or liability incurred by it in an amount which is USD500,000 or more which is not expected to be covered to the full extent of that loss or liability.
- (b) There has been no non-disclosure, misrepresentation or breach of any term of any material Insurance which would entitle any insurer of that Insurance to repudiate, rescind or cancel it or to treat it as avoided in whole or in part or otherwise decline any valid claim under it by or on behalf of any member of the Group.
- (c) No insurer of any material Insurance is in run-off or has entered into any insolvency proceedings.

16.19 Taxes on payments

- (a) It is not overdue in the filing of any Tax returns or filings relating to any material amount of Tax and it is not overdue in the payment of any material amount of, or in respect of, Tax.
- (b) No claims or investigations by any Tax authority are being or are reasonably likely to be made or conducted against it which are reasonably likely to result in a liability of or claim against any member of the Group to pay any material amount of, or in respect of, Tax.
- (c) For Tax purposes, it is resident only in the jurisdiction of its incorporation.
- (d) As at the date of this Agreement, all amounts payable by it under the Finance Documents may be made without any Tax Deduction.

16.20 Stamp duties

No stamp or registration duty or similar Tax or charge is payable in its jurisdiction of incorporation in respect of any Finance Document.

16.21 Immunity

- (a) The entry into by it of each Finance Document constitutes, and the exercise by it of its rights and performance of its obligations under each Finance Document will constitute private and commercial acts performed for private and commercial purposes; and
- (b) it will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to any Finance Document.

16.22 No adverse consequences

- (a) It is not necessary under the laws of its jurisdiction of incorporation:
 - (i) in order to enable any Finance Party to enforce its rights under any Finance Document; or
 - (ii) by reason of the entry into any Finance Document or the performance by it of its obligations under any Finance Document,that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in its jurisdiction of incorporation; and

- (b) no Finance Party is or will be deemed to be resident, domiciled or carrying on business in its jurisdiction of incorporation by reason only of the entry into, performance and/or enforcement of any Finance Document.

16.23 Jurisdiction/governing law

- (a) Its:
 - (i) irrevocable submission under this Agreement to the jurisdiction of the courts of England;
 - (ii) agreement that this Agreement is governed by English law; and
 - (iii) agreement not to claim any immunity to which it or its assets may be entitled,are legal, valid and binding under the laws of its jurisdiction of incorporation; and
- (b) any judgment obtained in England will be recognised and be enforceable by the courts of its jurisdiction of incorporation.

16.24 Times for making representations and warranties

- (a) Unless otherwise specified, the representations and warranties set out in this Clause are made by each Original Obligor on the date of this Agreement.
- (b) Unless a representation and warranty is expressed to be given at or as of a specific date or dates only, each representation and warranty is deemed to be repeated by:
 - (i) each Additional Guarantor and the Company on the date on which that Additional Guarantor becomes an Obligor; and
 - (ii) each Obligor on the date of each Request, on each Utilisation Date and on the last day of each Term.
- (c) When a representation and warranty is deemed to be repeated, it is deemed to be made by reference to the circumstances existing at the time of repetition.

17. INFORMATION COVENANTS

17.1 Financial statements

- (a) The Company must supply to the Facility Agent in sufficient copies for all the Lenders:
 - (i) the audited consolidated financial statements of the Merix Group for each annual Accounting Period (Form 10-K) filed with the U.S. Securities and Exchange Commission by the Merix Group;
 - (ii) the unaudited consolidated financial statements of the Merix Group for each quarterly Accounting Period (Form 10-Q) filed with the U.S. Securities and Exchange Commission by the Merix Group;
 - (iii) audited consolidated financial statements of the Company for each annual Accounting Period;

- (iv) such audited financial statements of each other Obligor for each annual Accounting Period as are required to be prepared under the law of the jurisdiction in which that Obligor is incorporated;
- (v) its unaudited consolidated financial statements and related statements of operations, stockholders' equity and cash flows for each quarterly Accounting Period; and
- (vi) the Book-to-Bill Ratio of the Group for Accounting Month,

provided that where the financial statements referred to in (i) and (ii) above have been posted on a publicly accessible electronic website, they may be supplied by the Company notifying the Facility Agent of such posting and details of the website.

- (b) The following Accounts and other financial information must be supplied as soon as they are available and:
 - (i) in the case of the Merix Group' s annual audited consolidated Accounts, and the annual audited Accounts of each Obligor, within 120 days;
 - (ii) in the case of Merix Group' s unaudited consolidated quarterly Accounts and the Company' s unaudited consolidated quarterly Accounts, within 45 days; and
 - (iii) in the case of the Company' s monthly Book-to-Bill Ratio of the Group information, within 30 days,of the end of the relevant Accounting Period or Accounting Month.

17.2 Form and scope of financial statements

- (a) The Company must ensure that all Accounts supplied under this Agreement:
 - (i) fairly present in all material respects the financial condition (consolidated if it has Subsidiaries) of the relevant person as at the date to which those Accounts were drawn up and the results of operations for the Accounting Period then ended; and
 - (ii) comprise at least a balance sheet, profit and loss account and cashflow statement for the Accounting Period then ended and (in the case of quarterly Accounts) the annual Accounting Period to date and the last 52/53 weeks (or less, taking into account Clause 18.4 (Initial periods)) consecutive quarterly Accounting Periods.
- (b) The Company must ensure that all annual audited consolidated Accounts of the Company are prepared in accordance with the Accounting Standards.
- (c) The Company must ensure that all unaudited Accounts are prepared in accordance with or on a basis consistent in all material respects with the Accounting Standards.
- (d) The Company must ensure that each set of Accounts for a quarterly Accounting Period is accompanied by a report of the Chief Financial Officer:
 - (i) explaining the main financial issues arising during that period; and
 - (ii) comparing the financial performance for such period against the equivalent period in the previous financial year.

- (e) The Company must ensure that each set of Accounts for an annual Accounting Period is accompanied by any letter addressed to the management of the Company (or Merix Corporation) by the Auditors and accompanying those Accounts.
- (f) The Company must notify the Facility Agent of any intended material change to the manner in which any Accounts are prepared.

17.3 Compliance Certificate

The Company must supply to the Facility Agent with each set of its annual and quarterly Accounts a Compliance Certificate which must be signed by the Chief Financial Officer.

17.4 Budget

- (a) The Company must supply to the Facility Agent as soon as they are available and in any event not later than 30 days before the beginning of each annual Accounting Period a budget for the Group for that Accounting Period.
- (b) The budget must be:
 - (i) prepared on a basis consistent with the Accounting Standards ; and
 - (ii) approved by the board of directors of the Company.
- (c) If the Company updates or changes the budget referred to above, it must within not more than 30 days of the update or change being made deliver to the Facility Agent in sufficient copies for all the Lenders:
 - (i) an updated or changed budget; and
 - (ii) a written explanation of the main changes in that budget.

17.5 Auditors

The Company will retain one of the firms named or described in the definition of “Auditors” in Clause 1.1 (Definitions) to audit its consolidated annual financial statements.

17.6 Information - miscellaneous

The Company must supply to the Facility Agent, in sufficient copies for all the Lenders if the Facility Agent so requests:

- (a) at the same time as they are despatched, copies of all documents despatched by the Company to its shareholders generally (or any class of them) or despatched by any member of the Group to its creditors generally (or any class of them);
- (b) promptly upon becoming aware of them, details of any circumstances which have or might have a Material Adverse Effect;
- (c) promptly upon becoming aware of them, details of any claim or potential claim in an amount of USD500,000 or more made by or against a member of the Group under the Acquisition Documents and any allegation of breach of any Acquisition Document by any party to that Acquisition Document;

- (d) promptly on receipt, copies of any financial statements or accounts of the Target Group not previously delivered under the EPC Facilities and copies of any completion accounts delivered under the Acquisition Documents;
- (e) promptly on request, an up to date copy of its shareholders' register (or the equivalent under the law of its jurisdiction of incorporation);
- (f) promptly after the same become publicly available (and only if and to the extent applicable), copies of all periodic and other reports, proxy statements and other materials filed by the Company or any of its Subsidiaries with any governmental authority regulating reporting by issuers of publicly held securities or with any national securities exchange; and
- (g) promptly on request, such further information regarding the financial condition, assets and operations of the Group and/or any member of the Group (including any requested amplification or explanation of any item in the Accounts, budgets or other material provided by any Obligor under this Agreement) as any Finance Party through the Facility Agent may reasonably request.

17.7 Notification of Default

- (a) Unless the Facility Agent has already been so notified by another Obligor, each Obligor must notify the Facility Agent of any Default (and the steps, if any, being or proposed to be taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly on request by the Facility Agent, the Company must supply to the Facility Agent a certificate, signed by two of its authorised signatories on its behalf, certifying that no Default is outstanding or, if a Default is outstanding, specifying the Default and the steps, if any, being or proposed to be taken to remedy it.

17.8 Year end

The Company must as promptly as reasonably possible:

- (a) procure that each annual Accounting Period, and each financial year-end of each member of the Group, falls on the Accounting Date falling on or nearest to 30 April;
- (b) procure that its first annual Accounting Period falls on 22 April 2006 (being five weeks prior to the last Saturday in May 2006); and
- (c) procure that each quarterly Accounting Period and each financial quarter of each member of the Group ends on an Accounting Date.

17.9 Know your customer requirements

- (a) Each Obligor must promptly on the request of any Finance Party supply to that Finance Party any documentation or other evidence which is reasonably requested by that Finance Party (whether for itself, on behalf of any Finance Party or any prospective new Lender) to enable a Finance Party or prospective new Lender to carry out and be satisfied with the results of all applicable know your customer requirements.
- (b) Each Lender must promptly on the request of the Facility Agent or the Security Agent supply to that Agent any documentation or other evidence which is reasonably required by that Agent to carry out and be satisfied with the results of all applicable know your customer requirements.

18. FINANCIAL COVENANTS

18.1 Financial undertakings

(a) The Company must ensure that:

- (i) **Fixed Charges Coverage Ratio:** Consolidated EBITDA, less Tax paid in cash and less Capital Expenditure made to the extent not financed with other permitted indebtedness or with cash proceeds from the sale of capital assets, during any Test Period ending on any quarterly Accounting Date on or after July 2006, shall not be less than 1.10 times Consolidated Total Debt Service for such Test Period;
- (ii) **Leverage Ratio:** Consolidated Total Borrowings as at the last day of each Test Period set forth below shall not be more than the multiple of Consolidated EBITDA for such Test Period shown in the table below:

Test Period to:	<u>Leverage Ratio</u>
22 July 2006	4.75
21 October 2006	4.25
20 January 2007	3.25
21 April 2007	2.75
21 July 2007	2.75
20 October 2007	2.75
26 January 2008	2.00
26 April 2008	2.00
26 July 2008	2.00
25 October 2008	2.00
24 January 2009	2.00

(iii) **Interest Coverage Ratio:** Consolidated EBITDA for each of the Test Periods ending on the dates in the table below, shall not be less than the multiple of Consolidated Total Interest Payable shown in the table for that Test Period:

Test Period to:	<u>Interest Coverage Ratio</u>
22 July 2006	3.00
21 October 2006	3.50
20 January 2007	4.00
21 April 2007	4.50
21 July 2007	4.50
20 October 2007	4.50
26 January 2008	4.50
26 April 2008	4.50
26 July 2008	4.50
25 October 2008	4.50
24 January 2009	4.50

- (b) **Maximum Capital Expenditure.** In respect of each period set out in column (1) below (each an **Expenditure Period**), the Company will procure that the Group taken as a whole will not make Capital Expenditure in excess of the amount (each a **Capital Expenditure Limit**) set out in column (2) below opposite the relevant period:

(1) Expenditure Period	(2) Capital Expenditure Limit (USD)
Closing Date to 22 April 2006	8,500,000
23 April 2006 to 21 April 2007	13,000,000
22 April 2007 to 26 April 2008	12,000,000
27 April 2008 to 31 May 2009	7,000,000

provided that:

- (i) for the purposes of this Subclause, Capital Expenditure funded by cash contributed by the Investor will be excluded in determining whether or not a Capital Expenditure Limit has been exceeded;
- (ii) up to fifty per cent. (50 per cent.) of any such Capital Expenditure Limit not utilised in any Expenditure Period may be carried forward for one Expenditure Period only and added (otherwise than for the purposes of the further application of this proviso) to the Capital Expenditure Limit for the next Expenditure Period. Any amount carried forward from one Expenditure Period to the next shall only be utilised after the original Capital Expenditure Limit for such next Expenditure Period has been utilised in full and if not utilised within such next Expenditure Period shall lapse; and
- (iii) the Company shall procure that the Group will not make Capital Expenditure if doing so would result in a breach of the Fixed Charges Coverage Ratio.
- (c) **Minimum Consolidated EBITDA.** In respect of each period set out in column (1) below, the Company will procure that the Consolidated EBITDA will not be less than the amount set out in column (2) below opposite the relevant period:

(1) Test Period	(2) Minimum Consolidated EBITDA (USD)
Closing Date to 22 April 2006	7,500,000
23 April 2006 to 21 April 2007	20,000,000
22 April 2007 to 26 April 2008	23,000,000
27 April 2008 to 30 April 2009	25,000,000

18.2 Financial covenant definitions

Subject to Clause 18.4 (Initial periods), in this Agreement the following terms have the meanings set out below:

(a) **Consolidated Cashflow** for any Test Period means Consolidated EBITDA for such period:

plus the amount of any rebate or credit in respect of any Tax on profits, gains or income actually received in cash by any member of the Group during such period;

plus the amount (net of any applicable withholding tax) of any dividends or other profit distributions received in cash by any member of the Group during such period from any entity which is not itself a member of the Group;

minus all prepayments of the Loans made during the Test Period.

minus all Capital Expenditure actually paid or contractually falling due for payment by members of the Group during such period except to the extent funded out of Net Proceeds or (for the purposes of calculating Excess Cashflow only) if greater, the amount of the Capital Expenditure Limit (as defined in Clause 18.1 (Financial undertakings) and ignoring any amount carried forward from a previous period) for that period;

minus all amounts of Tax on profits, gains or income actually paid and/or which fell due for immediate payment during such period and minus the amount of any withholding tax withheld from any amount paid to any member of the Group which has been taken into account in calculating Consolidated EBITDA for such period;

minus any increase or **plus** any decrease in Consolidated Net Working Capital between the Accounting Dates at the beginning and end of such Test Period (for which purpose the Closing Date shall be deemed to be an Accounting Date);

minus the amount of all dividends or other distributions in respect of its shares or other ownership interests paid by any member of the Group in that period to any person who is not a member of the Group;

minus all non-cash credits and plus all non-cash debits and other non-cash charges included in establishing Consolidated EBITDA for such period (to the extent not included in calculating Consolidated Net Working Capital as at the Accounting Date on which such period ends);

plus any positive and minus any negative extraordinary or exceptional items received or which are paid or fall due for payment by any member of the Group in cash during such period to the extent not already taken into account in calculating Consolidated EBITDA for such period;

minus payments to be paid to the other equity holders of the Permitted Joint Ventures permitted under Clause 19.16 (Dividends).

(b) **Consolidated EBITDA** for any Test Period means the operating income of the Group for such period:

before deducting any depreciation or amortisation whatsoever;

before taking into account all extraordinary items (whether positive or negative) and all exceptional items (whether positive or negative);

before deducting any amount of Tax on profits, gains or income paid or payable by the Group and any amount of any rebate or credit in respect of Tax on profits, gains or income received or receivable by the Group;

before taking into account any Interest accrued as an obligation of any member of the Group whether or not paid, deferred or capitalised during such period;

before taking into account (to the extent otherwise included) any unrealised gains or losses due to exchange rate movements;

after adding back (to the extent otherwise deducted) any loss against book value incurred by the Group on the disposal of any asset (other than the sale of trading stock) during such period;

after adding back an amount equal to the purchase accounting inventory mark-up multiplied by a fraction, the denominator of which is the book value of the inventory subject to such adjustment (“Adjustment Inventory”) and the numerator of which is the book value of Adjustment Inventory consumed in the relevant Test Period;

after adding back (to the extent otherwise deducted) non-cash charges including deferred compensation and charges for the grant of options for the purchase of shares in Merix Corporation;

after deducting (to the extent otherwise included) any gain over book value arising in favour of the Group on the disposal of any asset (other than the sale of trading stock) during such period and any gain arising on any revaluation of any asset during such period; and

after deducting the amount of profit of any entity (which is not a member of the Group) in which any member of the Group has an ownership interest to the extent that the amount of such profit included in the Accounts of the Group exceeds the amount (net of any applicable withholding tax) received in cash by members of the Group through distributions by that entity.

(c) **Consolidated Net Working Capital** as at any Accounting Date (for which purpose the Closing Date shall be deemed to be an Accounting Date) means Consolidated Current Commercial Assets minus Consolidated Current Commercial Liabilities, all as at such Accounting Date. For this purpose:

- (i) **Consolidated Current Commercial Assets** as at any Accounting Date means all of the current assets (other than Cash, Cash Equivalents, any credit receivable for Tax on profits, gains or income suffered, Interest receivable and repayments of Financial Indebtedness (within paragraph (a) and/or (c) of the definition of that term in Clause 1.1 (Definitions)) receivable) of the Group as at such Accounting Date;
- (ii) **Consolidated Current Commercial Liabilities** as at any Accounting Date means all of the current liabilities (excluding any Financial Indebtedness within paragraphs (a), (c), (d), (e), (f), (g), (i), (j), (k) and/or (l) of the definition of that term in Clause 1.1 (Definitions) (unless consisting of a liability in relation to items falling within paragraph (h) of that definition) and any accrued or unpaid Interest and any liabilities in respect of Tax on profits, gains or income and dividends, redemptions and other distributions payable to shareholders of the Company (whether or not declared)) of the Group as at such Accounting Date.

- (d) **Consolidated Total Debt Service** for the Group for any Test Period means Consolidated Total Interest Payable for such period:
- plus** all scheduled principal amounts of Financial Indebtedness (excluding any prepayments) of members of the Group (including, for the avoidance of doubt, the Loans and Financial Indebtedness under the Seller Loan Note Instrument but excluding Financial Indebtedness to any member of the Merix Group) which fell due for repayment or prepayment whether or not paid during or deferred for payment after such period, but excluding any principal amount which fell due under any overdraft or revolving credit facility and which was available for simultaneous redrawing according to the terms of such facility; and
- (e) **Consolidated Total Interest Payable** for the Group for any Test Period means the Interest accrued during such period as an obligation of any member of the Group to persons other than members of the Merix Group (whether or not paid or capitalised during or deferred for payment after such period).
- (f) **Consolidated Total Borrowings** in respect of the Group at any time means the aggregate at that time of the Financial Indebtedness of the members of the Group from sources external to the Merix Group (including, without limitation, the Loans and Financial Indebtedness under the Seller Loan Note Instrument).
- (g) **Test Period** means the period from the Closing Date to 22 April 2006 and thereafter the annual Accounting Period commencing on the Accounting Date approximately one year before the relevant measurement date and ending on the relevant measurement date.

18.3 Basis of Calculations

- (a) All the terms defined in Clause 18.2 (Financial covenant definitions) are to be determined on a consolidated basis and (except as expressly included or excluded in the relevant definition) in accordance with the Accounting Standards. The financial covenants in Clause 18.1 (Financial undertakings) shall apply as of the Accounting Date at the end of each Test Period and compliance (or otherwise) shall be verified by reference to the consolidated Accounts of the Group for the relevant Test Periods).
- (b) No item shall be deducted or credited more than once in any calculation.

18.4 Initial periods

- (a) Where any of the Test Periods would otherwise commence before the Closing Date, such Test Period shall, instead, commence on the Closing Date (the part of such period falling before the Closing Date being ignored).
- (b) Consolidated Cashflow, Consolidated EBITDA, Consolidated Total Debt Service and Consolidated Total Interest Payable shall for any Test Period ending less than 12 months after Closing be determined on an annualised basis by dividing each such amount by the number of days from Closing to the Accounting Date at the end of such Test Period and multiplying by 365.
- (c) For the purposes of making calculations under this Clause 18 (Financial covenants) only, the Target Group shall be deemed to have become wholly-owned subsidiaries of the Company on the Closing Date.

19. GENERAL COVENANTS

19.1 General

Each Obligor agrees to be bound by the covenants set out in this Clause relating to it and, where the covenant is expressed to apply to a member or members of the Group, each Obligor must ensure that any member of the Group which is its Subsidiary also performs that covenant.

19.2 Authorisations

(a) Each member of the Group must promptly:

- (i) obtain, maintain and comply with the terms; and
- (ii) supply certified copies to the Facility Agent,

of any authorisation required to enable it to perform its obligations under, or for the validity or enforceability of, any Transaction Document and the transactions contemplated by it.

(b) Each member of the Group must promptly:

- (i) obtain, maintain and comply with the terms; and
- (ii) supply certified copies to the Facility Agent,

of any authorisation required to enable it to carry on its business in the ordinary course where failure to do so has a Material Adverse Effect.

19.3 Compliance with laws

Each member of the Group must comply in all respects with all laws and regulations to which it is subject where failure to do so has a Material Adverse Effect.

19.4 Pari passu ranking

Each Obligor must ensure that its payment obligations under the Finance Documents at all times rank at least *pari passu* with all its present and future unsecured unsubordinated payment obligations, except for obligations mandatorily preferred by law applying to companies generally in its jurisdiction of incorporation or any other jurisdiction where it carries on business.

19.5 Negative pledge

(a) Except as provided in paragraph (c) below, no member of the Group may create or allow to exist any Security Interest on any of its assets.

(b) No member of the Group may:

- (i) dispose of any of its assets on terms where it is or may be or may be required to be leased to or re-acquired or acquired by a member of the Group or any of its related entities; or
- (ii) dispose of any of its receivables on recourse terms;
- (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

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- (iv) enter into any other preferential arrangement having a similar effect,
- in circumstances where the transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.
- (c) Paragraphs (a) and (b) above do not apply to:
- (i) any Security Interest created or evidenced by the Finance Documents;
 - (ii) any Security Interest (existing as at the date of this Agreement) over assets of any member of the Target Group, but only if that Security Interest is irrevocably released and discharged on Closing;
 - (iii) any Security Interest comprising a netting or set-off arrangement entered into by a member of the Group with an Approved Bank in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances provided that the aggregate of all obligations owing by the Group (other than under the Finance Documents) to all the Approved Banks entitled to such rights of netting or set-off shall not exceed USD10,000.
 - (iv) any lien arising by operation of law or any lien or retention of title arrangement arising by agreement to substantially the same effect and in the ordinary course of trading and not as a result of any default or omission by any member of the Group;
 - (v) any Security Interest on an asset acquired by a member of the Group after the Closing Date or on an asset (as at the date of a person's acquisition by a member of the Group) of that person, but only for the period of three months from the date of acquisition and to the extent that:
 - (A) that Security Interest was not created in contemplation of that acquisition; and
 - (B) the principal amount secured by that Security Interest is permitted by Clause 19.7(b)(ii) (Financial Indebtedness) and has not been incurred or increased or its maturity date extended in contemplation of, or since, that acquisition;
 - (vi) any Security Interest over goods and documents of title to such goods arising under documentary credit transactions entered into in the ordinary course of trade and on terms customary in that trade;
 - (vii) any Security Interest expressly permitted in writing by the Majority Lenders (but only if the amount secured by that Security Interest is not increased above the permitted amount); and
 - (viii) any Security Interest (not being over any asset subject to any Security Interest under the Security Documents and not being over any asset of any of the Obligors) securing that member of the Group's own indebtedness which (when taken together with any other indebtedness which has the benefit of a Security Interest not permitted under the preceding subparagraphs) does not exceed USD500,000 at any time.
 - (ix) any Security Interest provided in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations;
 - (x) cash deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

- (xi) cash deposits or guarantees provided to PRC or Hong Kong public utilities, in each case in the ordinary course of business;
- (xii) judgment liens in respect of judgments that do not constitute an Event of Default under Subclause 20.8 (Judgments); and
- (xiii) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of any of the Obligor.

19.6 Disposals

- (a) Except as provided in paragraph (b) below, no member of the Group may, either in a single transaction or in a series of transactions and whether related or not and whether voluntarily or involuntarily, dispose of all or any part of its assets.
- (b) Paragraph (a) does not apply to any disposal:
 - (i) of trading stock to a member of the Merix Group in accordance with any reasonable transfer pricing scheme which protects the commercial interests and maximises the Consolidated EBITDA of the Group to the extent permitted by law;
 - (ii) on or about Closing of accounts receivable to Merix Corporation (for United States of America customers), Merix UK Limited (for United Kingdom customers), Merix Circuits Corporation (for Canadian customers) or Merix Singapore Sales Pte. Ltd. (for Singapore customers) for fair value on terms which protect the commercial interests and maximise the Consolidated EBITDA of the Group to the extent permitted by law;
 - (iii) of trading stock outside the Merix Group made on arm' s length terms in the ordinary course of trading;
 - (iv) of any asset (not being a business and not being shares, securities, interests in real property or rights under any Transaction Document) on arm' s length terms in exchange for any other asset comparable or superior as to type, value, quality and title (but only if the Obligor grants security in favour of the Finance Parties (in form and substance satisfactory to the Security Agent) over any asset replacing one which was subject to a Security Interest created under a Security Document);
 - (v) of obsolete or redundant vehicles, plant and equipment, for cash on arm' s length terms provided that the fair market value of such assets does not exceed USD500,000 in any fiscal year;
 - (vi) of any asset (not being shares):
 - (A) to an Obligor incorporated in the same jurisdiction as the disposer (but only if the recipient grants security in favour of the Finance Parties (in form and substance satisfactory to the Security Agent) over any asset which was subject to a Security Interest created under a Security Document); or
 - (B) by a Non-Obligor to any member of the Group;
 - (vii) of Cash Equivalents:
 - (A) for cash; or

- (B) in exchange for other Cash Equivalents;
 - (viii) of cash where such disposal does not breach the other terms of the Finance Documents;
 - (ix) pursuant to any Permitted Reorganisation;
 - (x) constituted by a licence in respect of Intellectual Property Rights which is permitted pursuant to Clause 19.18(b) (Intellectual property rights);
 - (xi) constituted by a Security Interest permitted under Clause 19.5(b) (Negative pledge);
 - (xii) of any asset (not being a business and not being shares, securities, interests in real property or rights under any Transaction Document) to a Permitted Joint Venture on arm's length terms; or
 - (xiii) for cash on arm's length terms where the higher of the market value and consideration receivable (when taken together with the higher of the market value and consideration receivable for any other disposal not allowed under the preceding subparagraphs) does not exceed USD500,000 in any annual Accounting Period of the Company.
- (c) The disposals referred to in paragraphs (b)(v),(b)(vii)(A) and (b)(xiii) above shall be for cash payable in full at or before the time of disposal.

19.7 Financial Indebtedness

- (a) Except as provided in paragraph (b) below, no member of the Group may incur or permit to be outstanding any Financial Indebtedness or enter into any off-balance sheet financing arrangement.
- (b) Paragraph (a) does not apply to:
- (i) Financial Indebtedness incurred under the Finance Documents, the Seller Loan Note Instrument or the Capex Loan as in force at the date of this Agreement;
 - (ii) any Financial Indebtedness of any person acquired by a member of the Group after Closing which is incurred under arrangements in existence at the date of acquisition, but not incurred or increased or its maturity date extended in contemplation of, or since, that acquisition, and outstanding only for a period of three months following the date of acquisition;
 - (iii) any Financial Indebtedness under finance or capital leases entered into before Closing provided that the terms of all such leases are disclosed to the Facility Agent before the date 30 days after Closing and that the terms which apply to such leases after Closing remain those in existence before Closing, unless changed with the consent of the Majority Lenders and provided also that the aggregate capital value of all items so leased under all such leases entered into before Closing does not exceed \$5,000,000;
 - (iv) any Financial Indebtedness under finance or capital leases entered into after Closing, provided that the aggregate capital value of all such items so leased under outstanding leases by members of the Group does not exceed USD500,000 at any time;
 - (v) any Treasury Transaction permitted under Clause 19.13 (Treasury transactions);
 - (vi) any Financial Indebtedness permitted under Clause 19.12 (Third party guarantees) or Clause 19.14 (Loans out);

- (vii) any Financial Indebtedness expressly permitted in writing by the Majority Lenders;
 - (viii) any Financial Indebtedness of any member or members of the Group not otherwise permitted by this paragraph (b) which in aggregate (when taken together with the amount of any other indebtedness which has the benefit of a Security Interest permitted under Clause 19.5(c)(viii) (Negative pledge)) does not exceed USD500,000 at any time; or
 - (ix) any Financial Indebtedness incurred by a member of the Group in the ordinary course of business and owed to another member of the Merix Group which is a party to the Group Subordination Agreement.
- (c) This Subclause 19.7 shall not prohibit any member of the Group from incurring Financial Indebtedness the proceeds of which are at the same time used to pay in full all amounts owing to the Finance Parties and the Agents by the Obligor under the Finance Documents.

19.8 Change of business

The Company must ensure that no substantial change is made to the general nature of the business of the Group taken as a whole from that carried on by the Seller and its Subsidiaries at the Closing Date.

19.9 Mergers

No member of the Group may enter into any amalgamation, demerger, merger, consolidation or reconstruction other than a Permitted Reorganisation.

19.10 Acquisitions

- (a) Except as provided in paragraph (b) below, no member of the Group may:
- (i) acquire or subscribe for shares or other ownership interests in or securities of any company or other person;
 - (ii) acquire any business; or
 - (iii) incorporate any company or other person.
- (b) Paragraph (a) does not apply to:
- (i) any acquisition or subscription for shares or other ownership interests in any person referred to in the Structure Memorandum;
 - (ii) the Acquisition;
 - (iii) the subscription for or acquisition of shares in its direct Subsidiary, or the acquisition of the assets of an existing member of the Group, provided that:
 - (A) the relevant shares and/or assets are upon acquisition effectively charged under the Security Documents; and
 - (B) the aggregate of the amounts so applied does not exceed USD500,000 at any time;
 - (iv) any Permitted Reorganisation; or

- (v) the acquisition or subscription for shares or ownership interests in (or the incorporation of a special purpose company to acquire an interest in) a Permitted Joint Venture on arm's length terms.

19.11 Environmental matters

- (a) Each member of the Group must ensure that:
 - (i) it is, and has been, in compliance with all Environmental Laws and Environmental Approvals applicable to it, where failure to do so has a Material Adverse Effect or is reasonably likely to result in any liability for a Finance Party;
 - (ii) it obtains all requisite Environmental Approvals where failure to obtain would have a Material Adverse Effect or is reasonably likely to result in any liability for a Finance Party; and
 - (iii) it implements procedures to monitor compliance with and to prevent liability under any Environmental Law.
- (b) Each Obligor must, promptly upon becoming aware, notify the Facility Agent of:
 - (i) any Environmental Claim current, or to its knowledge, pending or threatened; or
 - (ii) any circumstances reasonably likely to result in an Environmental Claim,which has or, if substantiated, would have a Material Adverse Effect or is reasonably likely to result in any liability for a Finance Party.
- (c) The Company agrees to indemnify each Finance Party, each receiver appointed under any Security Document and their respective officers (together the **Indemnified Parties**) against any loss or liability suffered or incurred by that Indemnified Party (except to the extent caused by such Indemnified Party's own negligence or wilful default) which:
 - (i) arises by virtue of any actual or alleged breach of any Environmental Law (whether by any Obligor, an Indemnified Party or any other person); or
 - (ii) arises in connection with an Environmental Claim,

which relates to the Group, any assets of the Group or the operation of all or part of the business of the Group (or in each case any member of the Group) and which would not have arisen if the Finance Documents or any of them had not been executed by that Finance Party.

19.12 Third party guarantees

- (a) Except as provided in paragraph (b) below, no member of the Group may incur or allow to be outstanding any guarantee by such member of the Group or any of its Subsidiaries in respect of any person.
- (b) Paragraph (a) does not apply to:
 - (i) any guarantee arising under the Transaction Documents;
 - (ii) the endorsement of negotiable instruments in the ordinary course of trade;

- (iii) performance bonds guaranteeing performance by an Obligor (not being the Company or the Borrower) under any contract (not being in respect of Financial Indebtedness) entered into in the ordinary course of trade;
- (iv) guarantees by other Obligors in respect of the Financial Indebtedness of Obligors (not being the Company or the Borrower) where such Financial Indebtedness is permitted by the terms of this Agreement; or
- (v) guarantees (not being in respect of any obligation or liability of the Company or the Borrower) not otherwise allowed under the preceding subparagraphs under which the aggregate liability (actual or contingent) of members of the Group (when taken together with the amount of any Financial Indebtedness permitted under Clause 19.14(b)(v) (Loans out)) does not exceed USD500,000.

19.13 Treasury transactions

No member of the Group may enter into any Treasury Transaction, other than

- (a) contracts entered into in the ordinary course of business with an Approved Bank for a term of no more than one year which are not for speculative purposes.
- (b) any Treasury Transaction expressly permitted in writing by the Majority Lenders.

19.14 Loans out

- (a) Except as provided in paragraph (b) below, no member of the Group may be the creditor in respect of any Financial Indebtedness or of any trade credit extended to any of its customers.
- (b) Paragraph (a) does not apply to:
 - (i) trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities;
 - (ii) any loan by one Obligor to another Obligor or by a member of the Group to a Non-Obligor provided that the terms of paragraph (c) below are complied with.
 - (iii) loans made to directors and employees of members of the Group in order to purchase shares in the Company to the extent permitted by Clause 19.15 (Share capital);
 - (iv) loans to Joint Ventures to the extent permitted by Clause 19.27 (Joint Ventures); or
 - (v) Financial Indebtedness not otherwise allowed under the preceding subparagraphs which (when taken together with the aggregate actual or contingent liability under any guarantees permitted under Clause 19.12(b)(v) (Third party guarantees)) does not exceed USD500,000.
- (c) Any loan made between members of the Group must be on terms that:
 - (i) the creditor of that loan (if an Obligor) shall grant security over its rights in respect of that loan in favour of the Lenders on terms acceptable to the Facility Agent (acting on the instructions of the Majority Lenders) and in accordance with Clause 19.30 (Security);
 - (ii) each of the creditor and the debtor of that loan shall be party to the Group Subordination Agreement as an Obligor under and as defined in the Group Subordination Agreement; and

- (iii) the creditor in respect of that loan may not take any action to cause that loan (or any related interest, fees or other amounts) to become due or to be paid:
 - (A) in breach of the terms of the Group Subordination Agreement; or
 - (B) if not already prohibited by paragraph (A), unless the other member of the Group has sufficient readily available cash to pay the sum which is due or demanded.

19.15 Share capital

- (a) Except as provided in paragraph (b) below, no member of the Group may:
 - (i) redeem, purchase, defease, retire or repay any of its shares or share capital (or any instrument convertible into shares or share capital) or resolve to do so;
 - (ii) issue any shares (or any instrument convertible into shares) which by their terms are redeemable or carry any right to a return prior to the Senior Discharge Date; or
 - (iii) issue any shares or share capital (or any instrument convertible into shares or share capital) to any person other than its Holding Company.
- (b) Paragraph (a) does not apply to:
 - (i) any transaction expressly allowed under the Finance Documents;
 - (ii) the issue of shares by a member of the Group to another member of the Group which is a shareholder in it prior to that issue where, if any shares in the company issuing such shares are the subject of a Security Interest pursuant to the Security Documents, such shares become the subject of an equivalent Security Interest in favour of the Finance Parties on the same terms;
 - (iii) any transaction which is a Permitted Reorganisation; or
 - (iv) the issue of shares by the Company to one or more employees as compensation provided that the aggregate amount of ordinary shares allotted to them does not exceed USD500,000 at any time, with each share valued at its book value at the time it was allotted to an employee.

19.16 Dividends

- (a) Except as provided below, the Company may not and will procure that its Subsidiaries do not:
 - (i) declare, make or pay, or pay interest on any unpaid amount of, any dividend, charge, fee or other distribution (whether in cash or in kind) on or in respect of its shares or share capital (or any class of its share capital);
 - (ii) repay or distribute any share premium account; or
 - (iii) except as required by law, pay or allow any member of the Group to pay any management, advisory or other fee to or to the order of the shareholders of the Company (or any of their respective Affiliates which is not a member of the Group).
- (b) Paragraph (a) does not apply to:
 - (i) payment of dividends by any Subsidiary of the Borrower to the Borrower;

- (ii) payment of dividends by any Subsidiary of the Borrower to any other wholly-owned Subsidiary of the Borrower; or
- (iii) payment of dividends by EPCHY, EPCHZ, EPC Lomber and EPC Dongguan provided that such dividends (or profit distribution) are paid to all shareholders of such Subsidiary *pro rata* according to their respective equity interests in such Subsidiary.

19.17 Loan Notes

The Company may not (and will ensure that no other member of the Group will):

- (a) except as allowed by the terms of the Seller Subordination Agreement, repay or prepay any amount (whether of principal, fee, interest, premium or other charge) outstanding under the Seller Loan Note Instrument; or
- (b) purchase, redeem, defease or discharge or provide any guarantee or security for or sub participation in the Seller Loan Note Instrument or any amount outstanding under the Seller Loan Note Instrument.

19.18 Intellectual property rights

- (a) Except as provided below, each member of the Group must, except where the failure to do so would not have a Material Adverse Effect:
 - (i) make any registration and pay any fee or other amount which is necessary to retain and protect the Intellectual Property Rights which are material to the business of a member of the Group;
 - (ii) record its interest in those Intellectual Property Rights;
 - (iii) take such steps as are necessary and commercially reasonable (including the institution of legal proceedings) to prevent third parties infringing those Intellectual Property Rights;
 - (iv) not use or permit any such Intellectual Property Right to be used in a way which may, or take or omit to take any action which may, adversely affect the existence or value of such Intellectual Property Right; and
 - (v) not grant any licence in respect of those Intellectual Property Rights to anyone not a member of the Group.
- (b) Paragraph (a)(v) above does not apply to:
 - (i) licence arrangements entered into between members of the Group for so long as they remain members of the Group; or
 - (ii) licence arrangements entered into on normal commercial terms and in the ordinary course of its business.

19.19 Insurances

- (a) In this Clause a **prudent owner** means a prudent owner and operator of any business, and of assets of a type and size, similar in all cases to those owned and operated by the relevant member of the Group in a similar location.

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- (b) Each member of the Group must ensure that its Insurances insure it for its insurable interest in respect of all risks:
- (i) which are required to be insured against under any applicable law or regulation;
 - (ii) which a prudent owner would insure against.
- (c) Each member of the Group must ensure that the Insurances are with an insurance company or underwriter which is of international standing and is not a captive insurer which is a member of the Group.
- (e) Each member of the Group must ensure that its Insurances comply with the following requirements:
- (i) each member of the Group must be insured for its own insurable interest, and separately from any other insured party, on a basis that:
 - (A) any non-disclosure, misrepresentation or breach by or on behalf of any one insured party will not prejudice the cover of any other insured party; and
 - (B) insurers waive any right of subrogation against any member of the Group or any Finance Party;
 - (ii) each member of the Group must be entitled to claim directly for any insured loss suffered by it;
 - (iii) the insurers must give at least 30 days' notice to the Facility Agent if any insurer proposes to repudiate, rescind or cancel any Insurance or to treat it as avoided in whole or in part or otherwise decline any valid claim under it by or on behalf of that member of the Group;
 - (iv) each member of the Group must be free to assign all amounts payable to it under each of its Insurances and all its rights in connection with those amounts in favour of the Security Agent as agent and trustee for the Finance Parties; and
 - (v) no limits of cover purchased under any Insurance are to be capable of being eroded below the limits which a prudent owner would maintain by reason of claims from persons who are not members of the Group.
- (f) Each member of the Group must:
- (i) promptly pay (or procure payment of) all premiums and do anything which is necessary to keep each of its Insurances in full force and effect; and
 - (ii) not do or allow anything to be done which may (and promptly notify the Facility Agent of any event or circumstance which does or is reasonably likely to) entitle any insurer of any of its Insurances to repudiate, rescind or cancel it or to treat it as avoided in whole or in part or otherwise decline any valid claim under it by or on behalf of that member of the Group.

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- (g) Each member of the Group must:
- (i) promptly notify the Facility Agent of any event or occurrence giving rise to any aggregate loss or liability in excess of USD500,000 in respect of which any member of the Group is entitled to make one or more claim under any Insurance; and
 - (ii) keep the Facility Agent advised of the progress of the claim(s).
- (h) If any member of the Group fails to maintain any contract of insurance which it is required to maintain under this Agreement, that member of the Group will allow the Facility Agent to purchase the requisite insurance on its behalf if the Facility Agent so elects. That member of the Group must immediately on request by the Facility Agent pay the reasonable costs and expenses of the Facility Agent or any of its agents incurred in the purchase of that insurance.
- (i) Each member of the Group must keep all assets material to the conduct of its business in good order and condition, ordinary wear and tear excepted.

19.20 Lines of Business

The Company must not carry on any business or own any assets, other than:

- (a) the ownership of shares of the Borrower;
- (b) the ownership of Cash and the provision of administrative services (excluding treasury services) to other members of the Group of a type customarily provided by a Holding Company to its Subsidiaries;
- (c) incurring Financial Indebtedness under the Transaction Documents provided that the same is permitted by the Finance Documents; or
- (d) rights arising under the Transaction Documents.

19.21 Arm' s-length terms

No member of the Group may enter into any material transaction with any person otherwise than on arm' s-length terms and for full market value, save for:

- (a) loans between members of the Group; or
- (b) other transactions between members of the Group,

which are permitted by other terms of this Agreement provided that the terms of those loans or transactions do not result in a transfer of value from an Obligor to a Non-Obligor.

19.22 Amendments to documents

No member of the Group may:

- (a) amend its memorandum or articles of association, joint venture contracts or other constitutional documents;
- (b) amend or waive any term of the Transaction Documents or any of the other documents delivered to the Facility Agent pursuant to Clause 4.1 (Conditions precedent documents),

without the prior written consent of the Original Lenders if prior to Closing, and thereafter in a manner or to an extent which is reasonably likely in any way to affect materially and adversely the interests of the Finance Parties under the Finance Documents.

19.23 Bank Accounts

- (a) As soon as practicable after Closing the Borrower shall open such operating accounts as it requires with the Security Agents.
- (b) The Company shall procure that all sales by the Group outside the People' s Republic of China shall be made by the Borrower to the Group' s customers or, to the extent that it is in the commercial interests of the Group for tax or other reasons or required by law, to Merix Corporation (for sales to United States of America customers), Merix UK Limited (for United Kingdom customers), Merix Circuits Corporation (for Canadian customers) or Merix Singapore Sales Pte. Ltd. (for Singapore customers).
- (c) The Company shall procure that any member of the Merix Group which purchases from Borrower shall pay for all such purchases on reasonable arm' s length commercial terms.
- (d) The Borrower shall pay (or procure the payment of) the proceeds of all receivables from all sales into the Borrower' s operating account(s) with the Security Agent.
- (e) After the opening of the account(s) referred to in paragraph (a) above, the Borrower may not open or maintain any account or enter into any banking relationship with any bank other than the Security Agent.

19.24 Access

Upon reasonable notice being given by the Facility Agent, each Obligor must, and will cause each other member of the Group to, allow any one or more representatives of the Facility Agent and/or accountants or other professional advisers appointed by the Facility Agent (at the Company' s risk and expense) to have access during normal business hours to the premises, assets, books and records of that member of the Group to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants.

19.25 Pension schemes

- (a) Each member of the Group must be:
 - (i) in compliance with all laws and contracts relating to any of its pension schemes; and
 - (ii) maintain and fund its pension schemes to at least the extent required by local law and practice.
- (b) The Company must supply the Facility Agent with a copy of any report in respect of any pension scheme operated by a member of the Group which the Facility Agent may reasonably request.

19.26 Taxes

Each member of the Group must pay all Taxes due and payable (or, where payments of Tax must be made by reference to estimated amounts, such estimated Tax (calculated in good faith) as due and payable for the relevant period) by it prior to the accrual of any fine or penalty for late payment, unless (and only to the extent that):

- (a) payment of those Taxes is being contested in good faith;
- (b) adequate reserves are being maintained for those Taxes and the costs required to contest them; and

- (c) failure to pay those Taxes does not have a Material Adverse Effect.

19.27 Joint Ventures

No member of the Group may:

- (a) enter into, invest in, acquire any interest in, transfer any asset to, lend to, be the creditor of any Financial Indebtedness of or give any guarantee in respect of the obligations of any Joint Venture; or
- (b) trade with or sell to or acquire assets or services from any Joint Venture otherwise than on arm's length terms, other than in respect of a Permitted Joint Venture.

19.28 Executive Officers

- (a) The Company must ensure that there is in place in respect of each Obligor and each Subsidiary qualified management with appropriate skills.
- (b) If any of the Executive Officers ceases (whether by reason of death, retirement at normal retiring age or through ill health or otherwise) to perform his or her duties (as required under the service contracts delivered to the Facility Agent pursuant to under paragraph 18 of Schedule 2 (Conditions precedent documents)), the Company must promptly notify the Facility Agent.

19.29 Guarantees

- (a) The Company must ensure that each of the Targets will comply with section 76 of the Companies Act of Singapore or section 47A of the Companies Ordinance of Hong Kong (if applicable) at or before the time it is required to execute the Finance Documents provided for in Schedule 5 (Security Documents).
- (b) The Company must ensure that:
 - (i) each of the Targets becomes an Additional Guarantor at or before the time provided for in Schedule 5 (Security Documents);
 - (ii) each person that becomes a Subsidiary of the Company becomes an Additional Guarantor as soon as such person becomes a Subsidiary.
- (c) The Company is not required to perform its obligations under paragraph (a) or (b) above if:
 - (i) it is unlawful for the relevant person to become a Guarantor; and
 - (ii) that person becoming a Guarantor would result in personal liability for that person's directors or other management.
- (d) Each Obligor must use, and must procure that the relevant person uses, all reasonable endeavours (including compliance with sections section 76 of the Companies Act of Singapore or section 47A of the Companies Ordinance of Hong Kong or the equivalent in that relevant person's jurisdiction of incorporation) lawfully to avoid any such unlawfulness or personal liability. This includes agreeing to a limit on the amount guaranteed. The Facility Agent may agree to such a limit if, in its opinion, to do so might avoid the relevant unlawfulness or personal liability.

19.30 Security

- (a) Each Obligor shall ensure that the persons identified in Schedule 5 (Security Documents) will execute and deliver to the Security Agent the intended Security Documents identified against their name in that Schedule at or before the time provided for in that Schedule.
- (b) Each Obligor must, and shall procure that each Subsidiary, on acquiring any asset which:
- (i) would not be immediately and effectively charged by the then existing Security Documents; and
 - (ii) (A) is of a type which is charged by the then existing Security Documents; or
(B) is otherwise material to the business of that member of the Group,
- executes and delivers to the Security Agent such further or additional Security Documents in relation to such assets as the Majority Lenders may reasonably require and in form and substance satisfactory to them.
- (c) Each Obligor shall execute and deliver to the Security Agent such further or additional Security Documents in such form as the Majority Lenders shall require creating an effective first ranking fixed Security Interest over the shares in any entity which becomes a member of the Group after Closing.
- (d) Eastern Pacific Circuits Investments Limited (to be renamed as Merix Holding (Hong Kong) Limited) shall procure the registration of the EPC Lomber and EPC Dongguan Equity Pledges with the SAIC and MOFCOM by not later than 90 days after the date of execution of these Equity Pledges.
- (e) Eastern Pacific Circuits Investments (Singapore) Pte. Ltd. (to be renamed as Merix Holding (Singapore) Pte. Ltd.) shall procure the registration of the MHY, MHZ and Merix Distribution Equity Pledges with the SAIC and MOFCOM by not later than 90 days after the date of execution of these Equity Pledges.
- (f) Each Obligor shall, and shall procure that each other relevant member of the Group which is its Subsidiary shall, at its own expense, execute and do all such assurances, acts and things as the Security Agent may reasonably require:
- (i) for registering any Security Documents in any required register and for perfecting or protecting the security intended to be afforded by the Security Documents; and
 - (ii) if the Security Documents have become enforceable, for facilitating the realisation of all or any part of the assets which are subject to the Security Documents and the exercise of all powers, authorities and discretions vested in the Security Agent or in any receiver of all or any part of those assets,
- and in particular shall execute all transfers, conveyances, assignments and releases of that property whether to the Security Agent or to its nominees and give all notices, orders and directions which the Security Agent may reasonably think expedient.
- (g) On each date that a Security Document is entered into after Closing, each Obligor shall procure that the documents listed in Part 4 (To be delivered in respect of additional security) of Schedule 2 (Conditions Precedent Documents) in respect of the Obligor entering into such Security Document are delivered to the Facility Agent.

- (h) The Company shall procure and Merix Manufacturing (Hong Kong) Limited shall obtain all necessary consent and approval from the Lessor in relation to the granting of the Security Interest over and in respect of the TKO Secured Property in accordance with the terms of the Master Security Deed, as identified in Schedule 5 (Security Documents) within 14 days from the date of this Agreement (each of the Lessor, the Lease and TKO Secured Property having the meaning as defined in the Master Security Deed).

19.31 Acquisition Documents

- (a) The Company shall promptly pay (or shall procure that there is promptly paid) all amounts payable by the Company (or any member of the Merix Group) under the Acquisition Documents as and when the same become due (save to the extent being contested by a member of the Merix Group in good faith and where adequate reserves are being maintained for any such payment).
- (b) The Company must take, and must procure that each member of the Group takes, all commercially reasonable steps to protect, maintain and enforce its rights and pursue any claims or remedies which the Merix Group has under the Acquisition Documents.

20. DEFAULT

20.1 Events of Default

Each of the events or circumstances set out in this Clause is an Event of Default.

20.2 Non-payment

An Obligor does not pay on the due date any amount payable by it under the Finance Documents in the manner required under the Finance Documents, unless the non-payment:

- (a) is caused by technical or administrative error by a bank in the transmission of funds; and
- (b) is remedied within three Business Days of the due date.

20.3 Breach of other obligations

- (a) An Obligor does not comply with any term of Clauses 18 (Financial covenants), 19.4 (Pari passu ranking), 19.5 (Negative pledge), 19.6 (Disposals), 19.9 (Mergers), 19.10 (Acquisitions), 19.12 (Third party guarantees), 19.14 (Loans out), 19.15 (Share capital), 19.16 (Dividends), 19.17 (Loan Notes), 19.29 (Guarantees) or 19.30 (Security); or
- (b) an Obligor does not comply with any term of the Finance Documents (other than any term referred to in Clause 20.2 (Non-payment) or in paragraph (a) above), unless the non compliance:
- (i) is capable of remedy; and
- (ii) is remedied within 14 days of the earlier of the Facility Agent giving notice of the breach to the Company and any Obligor becoming aware of the non-compliance.

20.4 Misrepresentation

A representation or warranty made or deemed to be repeated by an Obligor in any Finance Document or in any document delivered by or on behalf of any Obligor under any Finance Document is incorrect or misleading in any material respect when made or deemed to be repeated, unless the circumstances giving rise to the breach of warranty:

- (a) are capable of remedy (in the sole opinion of the Facility Agent); and

- (b) are remedied within 30 days of the earlier of the Facility Agent giving notice of the breach to the Company and any Obligor becoming aware of the misrepresentation or breach of warranty.

20.5 Cross-default

- (a) Any of the following occurs in respect of a member of the Group:
 - (i) any of its Financial Indebtedness (or any amount payable in respect of its Financial Indebtedness) is not paid when due (after the expiry of any originally applicable grace period); or
 - (ii) any of its Financial Indebtedness:
 - (A) becomes prematurely due and payable prior to its stated maturity or, if the Financial Indebtedness arises under a guarantee, prior to the stated maturity of the Financial Indebtedness which is the subject of the guarantee; or
 - (B) is placed on demand;
 - (C) is capable of being declared by or on behalf of a creditor to be prematurely due and payable or of being placed on demand; or
 - (D) is terminated or closed out or is capable of being terminated or closed out,in each case, as a result of an event of default or any provision having a similar effect (howsoever described); or
 - (iii) any commitment of a provider of Financial Indebtedness to it is cancelled or suspended, or is capable of being cancelled or suspended by such provider, in each case, as a result of an event of default or any provision having a similar effect (howsoever described),

unless the aggregate principal amount of Financial Indebtedness falling within all or any of paragraphs (i) to (iii) above is less than USD1,000,000.

- (b) Any of the following occurs in respect of a member of the Merix Group:
 - (i) the Wachovia Facility becomes due and payable prior to its stated maturity; or
 - (ii) formal litigation proceedings are commenced to recover any amount due and payable under the Wachovia Facility; or
 - (iii) enforcement of any Security Interest over any of its assets; or
 - (iv) a meeting of its shareholders, directors or other officers is convened for the purpose of considering any resolution for, to petition for or to file documents with a court or any registrar for its winding-up, administration or dissolution or for the seeking of relief under any applicable bankruptcy, insolvency, company or similar law or any such resolution is passed; or
 - (v) any Borrower or Guarantor makes an assignment for the benefit of creditors, makes or sends notice of a bulk transfer or calls a meeting of its creditors or principal creditors in connection with a moratorium or adjustment of the Indebtedness due to them; or

- (vi) a case or proceeding under the bankruptcy laws of the United States of America now or hereafter in effect or under any insolvency, reorganization, receivership, readjustment of debt, dissolution or liquidation order or statute of any jurisdiction now or hereafter in effect (whether at law or in equity) is filed against any Borrower or Guarantor or all or any part of its properties and such petition or application is not dismissed within sixty (60) days after the date of its filing or any Borrower or Guarantor shall file any answer admitting or not contesting such petition or application or indicates its consent to, acquiescence in or approval of, any such action or proceeding or the relief requested is granted sooner; or
- (vii) a case or proceeding under the bankruptcy laws of the United States of America now or hereafter in effect or under any insolvency, reorganization, receivership, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction now or hereafter in effect (whether at a law or equity) is filed by any Borrower or Guarantor or for all or any part of its property; or
- (viii) its shareholders, directors or other officers request the appointment of, or give notice of their intention to appoint, a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer in respect of it or any of its assets.

20.6 Insolvency

Any of the following occurs in respect of any member of the Group:

- (a) it is, or is deemed for the purposes of any applicable law to be, unable to pay its debts as they fall due or insolvent; or
- (b) it admits its insolvency or its inability to pay its debts as they fall due; or
- (c) it suspends making payments on any of its debts or announces an intention to do so; or
- (d) by reason of actual or anticipated financial difficulties, it begins negotiations with any creditor for the rescheduling or restructuring of any of its indebtedness; or
- (e) the value of its assets is less than its liabilities (taking into account contingent and prospective liabilities); or
- (f) a moratorium is declared or instituted in respect of any of its indebtedness.
- (g) If a moratorium occurs in respect of any member of the Group, the ending of the moratorium will not remedy any Event of Default caused by the moratorium.

20.7 Insolvency proceedings

- (a) Except as provided in paragraph (b) below, any of the following occurs in respect of a member of the Group:
 - (i) any step is taken with a view to a moratorium or a composition, assignment or similar arrangement with any of its creditors; or
 - (ii) a meeting of its shareholders, directors or other officers is convened for the purpose of considering any resolution for, to petition for or to file documents with a court or any registrar for its winding-up, administration or dissolution or for the seeking of relief under any applicable bankruptcy, insolvency, company or similar law or any such resolution is passed; or

- (iii) any person presents a petition or files documents with a court or any registrar for its winding-up, administration, dissolution or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) or seeking relief under any applicable bankruptcy, insolvency, company or similar law; or
 - (iv) an order for its winding-up, administration or dissolution is made or other relief is granted under any applicable bankruptcy, insolvency, company or similar law; or
 - (v) any Security Interest is enforced over any of its assets;
 - (vi) any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer is appointed in respect of it or any of its assets; or
 - (vii) its shareholders, directors or other officers request the appointment of, or give notice of their intention to appoint, a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer in respect of it or any of its assets.
- (b) Paragraph (a) above does not apply to:
- (i) any step or procedure which is part of a Permitted Reorganisation; or
 - (ii) a petition for winding-up presented by a creditor which is being contested in good faith and with due diligence and is discharged or struck out within 14 days.

20.8 Judgments

- (a) Any judgment for the payment of money is rendered against any member of the Group for an amount in excess of USD250,000 in one case or in excess of USD500,000 in the aggregate and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of a member of the Group, to enforce any such judgment.
- (b) Paragraph (a) does not apply if:
- (i) the judgment is covered by insurance and the insurer has assumed responsibility in writing for such judgment within 30 days; and
 - (ii) the judgment amount is paid or otherwise satisfied within 60 days.

20.9 Creditors' process

- (a) Except as provided in paragraph (b) below, any attachment, sequestration, distress, execution or analogous event affects any asset or assets of a member of the Group.
- (b) Paragraph (a) does not apply if:
- (i) the asset or assets are not subject to any Security Interest under the Security Documents and the aggregate value of that asset or those assets is less than USD1,000,000; or

- (ii) that attachment, sequestration, distress, execution or analogous event is being contested in good faith and with due diligence and is discharged within 14 days.

20.10 Analogous proceedings

There occurs, in relation to any member of the Group, in any jurisdiction to which it or any of its assets are subject, any event which appears to correspond with any of those mentioned in Clauses 20.6 (Insolvency) to 20.8 (Judgments) (inclusive).

20.11 Cessation of business

A member of the Group suspends, ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business or to change the nature of its business from that undertaken at the date of this Agreement except:

- (a) as part of a Permitted Reorganisation; or
- (b) as a result of any disposal allowed under this Agreement.

20.12 Finance Documents

- (a) It is or becomes unlawful for any Obligor to perform any of its obligations under the Finance Documents.
- (b) Any Finance Document is not effective in accordance with its terms or is alleged by an Obligor to be ineffective in accordance with its terms for any reason.
- (c) A Security Document does not create the Security Interests it purports to create.
- (d) An Obligor repudiates or rescinds a Finance Document or evidences an intention to repudiate or rescind a Finance Document.

20.13 Ownership of members of the Group

- (a) An Obligor (other than the Company) is not or ceases to be a wholly-owned Subsidiary of the Company.
- (b) The Company does not or ceases to hold beneficially, directly or indirectly, 85% of the equity interest in EPCHZ.
- (c) The Company does not or ceases to hold beneficially, directly or indirectly, 95% of the equity interest in EPCHY.
- (d) The Company does not or ceases to hold beneficially, directly or indirectly, 90% of the equity interest in EPC Lomber.
- (e) The Company does not or ceases to hold beneficially, directly or indirectly, 85.29% of the equity interest in EPC Dongguan.

20.14 Subordination Agreement

- (a) (i) Any party to the Group Subordination Agreement (other than a Finance Party) does not comply with the terms of the Group Subordination Agreement; or

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- (ii) a representation or warranty given by any party to a Subordination Agreement is incorrect in any material respect, and, if the non-compliance or circumstances giving rise to the misrepresentation or breach of warranty are capable of remedy, such non-compliance is or circumstances are not remedied within 14 days of the earlier of the Facility Agent giving notice to that party of and that party becoming aware of the non-compliance or misrepresentation or breach of warranty;
 - (b) a Subordination Agreement is not effective or is alleged by a party to it (other than a Finance Party) to be ineffective;
 - (c) any party to a Subordination Agreement (other than a Finance Party) repudiates that Subordination Agreement or takes any step which can reasonably be interpreted as indicating an intention to repudiate it; or
 - (d) any other event occurs which has a material adverse effect on the rights of the Finance Parties under a Subordination Agreement.

20.15 Material adverse effect

Any event or series of events (whether related or not) occurs which has a Material Adverse Effect.

20.16 Audit qualification

The Auditors qualify their report on any audited Accounts of the Company:

- (a) on the grounds that the information supplied to them or to which they had access was inadequate or unreliable;
- (b) on the grounds that they are unable to prepare such Accounts on a going concern basis; or
- (c) otherwise in terms or as to issues which in the opinion of the Majority Lenders (acting reasonably) are material in the context of the Finance Documents and the transactions contemplated by them.

20.17 Expropriation

The authority or ability of any member of the Group to conduct its business is wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person.

20.18 Rescission of Agreements

Any party to the Acquisition Documents or the Seller Loan Note Instrument rescinds or purports to rescind or repudiates or purports to repudiate any of those agreements or instruments in whole or in part where to do so would in the opinion of the Majority Lenders (acting reasonably) materially and adversely affect the interests of the Lenders under the Finance Documents.

20.19 Proceedings

There shall occur any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or enquiry concerning or arising in consequence of any of the Acquisition Documents or the Finance Documents or the implementation of any matter or transaction provided for in the Acquisition Documents or the Finance Documents, and which is reasonably likely to be determined adversely to any member of the Group, and which if so determined would have a Material Adverse Effect.

20.20 Acceleration

- (a) Subject to paragraph (b) below, if an Event of Default is outstanding, the Facility Agent may, and must if so instructed by the Majority Lenders, by notice to the Company:
- (i) declare that an Event of Default has occurred; and/or
 - (ii) cancel all or any part of the Total Commitments; and/or
 - (iii) declare that all or part of any amounts outstanding under the Finance Documents are:
 - (A) immediately due and payable; and/or
 - (B) payable on demand by the Facility Agent acting on the instructions of the Majority Lenders.

Any notice given under this Subclause will take effect in accordance with its terms.

- (b) In the case of an Event of Default under Clauses 20.6, 20.7, 20.9, 20.10, 20.11 or 20.17 which arises in relation to an event or circumstances concerning a Non-Core Subsidiary and provided that no other Default or Event of Default has occurred and is subsisting, the Facility Agent and the Lenders will not take any steps under paragraph (a) above unless they determine in their absolute discretion (which determination may be made or varied at any time whilst the relevant Event of Default is outstanding) that the occurrence or subsistence of that Event of Default has an adverse effect or is reasonably likely to have an adverse effect on:
- (i) the ability of any Obligor other than the relevant Non-Core Subsidiary to perform any of its payment obligations under any of the Finance Documents (taking into account resources available to it without breaching the terms of the Agreement from other members of the Group);
 - (ii) the ability of the Company to comply with its obligation under Clause 18 (Financial Covenants);
 - (iii) the assets, prospects or financial condition of the Group taken as a whole;
 - (iv) any right or remedy of a Finance Party in respect of the Finance Document; or
 - (v) the validity or enforceability of, or effectiveness or ranking of any security granted or purported to be granted pursuant to, any Finance Document.

21. SECURITY

21.1 Security Agent as holder of security

Unless expressly provided to the contrary in any Finance Document, the Security Agent holds any security created by a Security Document on trust for the Finance Parties.

21.2 Responsibility

- (a) Except as otherwise provided in a Finance Document, the Security Agent is not liable or responsible to any other Finance Party for:
- (i) any failure in perfecting or protecting the security created by any Security Document; or

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- (ii) any other action taken or not taken by it in connection with a Security Document.
- (b) Except as otherwise provided in a Finance Document, no Agent is responsible for:
- (i) the right or title of any person in or to, or the value of, or sufficiency of any part of the security created by the Security Documents;
 - (ii) the priority of any security created by the Security Documents; or
 - (iii) the existence of any other Security Interest affecting any asset secured under a Security Document.

21.3 Title

- (a) The Security Agent may accept, without enquiry, the title (if any) an Obligor may have to any asset over which security is intended to be created by any Security Document.
- (b) The Security Agent has no obligation to insure any such asset or the interests of the Finance Parties in any such asset.

21.4 Possession of documents

The Security Agent is not obliged to hold in its own possession any Security Document, title deed or other document in connection with any asset over which security is intended to be created by a Security Document. Without prejudice to the above, the Security Agent may allow any bank providing safe custody services or any professional adviser to the Security Agent to retain any of those documents in its possession.

21.5 Investments

Except as otherwise provided in any Security Document and in Clause 7.7 above, all moneys received by the Security Agent under the Finance Documents may be:

- (a) invested in the name of, or under the control of, the Security Agent in any investment for the time being authorised by English law for the investment by trustees of trust money or in any other investments which may be selected by the Security Agent with the consent of the Majority Lenders; or
- (b) placed on deposit in the name of, or under the control of, the Security Agent at such bank or institution (including any Finance Party) and upon such terms as the Security Agent may agree.

21.6 Approval

Each Finance Party:

- (a) confirms its approval of each Security Document; and
- (b) authorises and directs the Security Agent (by itself or by such person(s) as it may nominate) to execute and enforce the same as trustee (or agent) or as otherwise provided (and whether or not expressly in the names of the Finance Parties) on its behalf.

21.7 Conflict with Security Documents

If there is any conflict between the provisions of this Agreement and any Security Document with regard to instructions to or other matters affecting the Security Agent, this Agreement will prevail.

21.8 Release of security

(a) If a disposal to a person or persons outside the Group of any asset owned by an Obligor over which security has been created by the Security Documents is:

- (i) allowed by the terms of Clause 19.6 (Disposals); or
- (ii) being effected at the request of the Majority Lenders in circumstances where any of the security created by the Security Documents has become enforceable; or
- (iii) being effected by enforcement of the Security Documents,

the Security Agent is irrevocably authorised to execute on behalf of each Finance Party and each Obligor (and at the cost of the relevant Obligor) the releases referred to in paragraph (b) below.

(b) The releases referred to in paragraph (a) above are:

- (i) any release of the security created by the Security Documents over that asset; and
- (ii) if that asset comprises all of the shares in the capital of any Obligor (or any Holding Company of an Obligor) held by members of the Group, a release of that Obligor and its Subsidiaries from all present and future liabilities (both actual and contingent and including any liability to any other Obligor under the Finance Documents by way of contribution or indemnity) in its capacity as a Guarantor (but not as the Borrower) under the Finance Documents and a release of all Security Interests granted by that Obligor and its Subsidiaries under the Security Documents.

- (c) (i) In the case of subparagraph (a)(i) above, the Net Proceeds of the disposal must be applied in accordance with Clause 7 (Prepayment and cancellation).
- (ii) In the case of subparagraphs (a)(ii) and (iii) above, the Net Proceeds of the disposal must be applied in accordance with Clause 14.7 (Partial payments).

(d) If the Security Agent is satisfied that a release is allowed under this Subclause, each Finance Party must execute (at the cost of the relevant Obligor) any document which is reasonably required to achieve that release. Each other Finance Party irrevocably authorises the Security Agent to execute any such document. Any release will not affect the obligations of any other Obligor under the Finance Documents.

21.9 Certificate of non-crystallisation

The Security Agent may, at the cost and request of the Company, issue certificates of non-crystallisation.

21.10 Co-security agent

(a) The Security Agent may appoint a co-security agent in any jurisdiction outside Hong Kong:

- (i) if the Security Agent considers that without the appointment the interests of the Finance Parties under the Finance Documents might be materially and adversely affected;

-
- (ii) for the purpose of complying with any law, regulation or other condition in any jurisdiction; or
 - (iii) for the purpose of obtaining or enforcing a judgment or enforcing any Finance Document in any jurisdiction.
- (b) Any appointment under this Subclause will only be effective if the separate security agent or co-security agent confirms to the Security Agent and the Company in form and substance satisfactory to the Security Agent that it is bound by the terms of this Agreement as if it were the Security Agent.
- (c) The Security Agent may remove any separate security agent or co-security agent appointed by it and may appoint a new co-security agent in its place.
- (d) The Company must pay to the Security Agent any reasonable remuneration paid by the Security Agent to any separate security agent or co-security agent appointed by it, together with any related reasonable costs and expenses properly incurred by the separate security agent or co-security agent.

21.11 Perpetuity period

The perpetuity period for the trusts in this Agreement is 80 years.

21.12 Information

Each Lender must supply the Security Agent with any information that the Security Agent may reasonably specify as being necessary or desirable to enable it to perform its functions under this Clause.

21.13 Perfection of security

An Obligor must (at its own cost) take any action and execute any document which is required by the Security Agent so that a Security Document provides for effective and perfected security in favour of any successor Security Agent.

22. THE AGENTS

22.1 Appointment and duties of the Agents

- (a) Each Finance Party (other than such Agent) irrevocably appoints each Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each Finance Party irrevocably authorises each Agent to:
- (i) perform the duties and to exercise the rights, powers and discretions that are specifically given to it under the Finance Documents, together with any other incidental rights, powers and discretions; and
 - (ii) execute each Finance Document expressed to be executed by the relevant Agent on its behalf.
- (c) Each Agent has only those duties which are expressly specified in the Finance Documents. Those duties are solely of a mechanical and administrative nature.

22.2 No fiduciary duties

Except as specifically provided in a Finance Document:

- (a) nothing in the Finance Documents makes an Agent a trustee or fiduciary for any other Party or any other person; and

- (b) no Agent need hold in trust any moneys paid to or recovered by it for a Party in connection with the Finance Documents or be liable to account for interest on those moneys.

22.3 Individual position of an Agent

- (a) If it is also a Lender, each Agent has the same rights and powers under the Finance Documents as any other Lender and may exercise those rights and powers as though it were not an Agent.
- (b) Each Agent may:
 - (i) carry on any business with any Obligor or its related entities (including acting as an agent or a trustee for any other financing); and
 - (ii) retain any profits or remuneration it receives under the Finance Documents or in relation to any other business it carries on with any Obligor or its related entities.

22.4 Reliance

Each Agent may:

- (a) rely on any notice or document believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person;
- (b) rely on any statement made by any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify;
- (c) assume, unless the context otherwise requires, that any communication made by an Obligor is made on behalf of and with the consent and knowledge of all the Obligors;
- (d) engage, pay for and rely on professional advisers selected by it (including those representing a Party other than that Agent); and
- (e) act under the Finance Documents through its personnel and agents.

22.5 Majority Lenders' instructions

- (a) Each Agent is fully protected if it acts on the instructions of the Majority Lenders in the exercise of any right, power or discretion or any matter not expressly provided for in the Finance Documents. Any such instructions given by the Majority Lenders will be binding on all the Lenders. In the absence of instructions, each Agent may act or refrain from acting as it considers to be in the best interests of all the Lenders.
- (b) Each Agent may assume that, unless it has received notice to the contrary, any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised.
- (c) Each Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received security satisfactory to it, whether by way of payment in advance or otherwise, against any liability or loss which it may incur in complying with the instructions.

- (d) Neither Agent is authorised to act on behalf of a Lender (without first obtaining that Lender' s consent) in any legal or arbitration proceedings in connection with any Finance Document, unless the legal or arbitration proceedings relate to:
 - (i) the perfection, preservation or protection of rights under the Security Documents; or
 - (ii) the enforcement of any Security Document.
- (e) An Agent may require the receipt of security satisfactory to it, whether by way of payment in advance or otherwise, against any liability or loss which it may incur in complying with the instructions of the Majority Lenders.

22.6 Responsibility

- (a) No Agent is responsible to any other Finance Party for the legality, validity, effectiveness, enforceability, adequacy, accuracy, completeness or performance of:
 - (i) any Finance Document or any other document;
 - (ii) any statement or information (whether written or oral) made in or supplied in connection with any Finance Document; or
 - (iii) any observance by any Obligor of its obligations under any Finance Document or any other document.
- (b) Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms that it:
 - (i) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Finance Documents (including the financial condition and affairs of each Obligor and its related entities and the nature and extent of any recourse against any Party or its assets); and
 - (ii) has not relied exclusively on any information provided to it by any Agent in connection with any Finance Document or agreement entered into in anticipation of or in connection with any Finance Document.

22.7 Exclusion of liability

- (a) Neither Agent is liable or responsible to any other Finance Party for any action taken or not taken by it in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct.
- (b) No Party (other than the relevant Agent) may take any proceedings against any of the officers of an Agent in respect of any claim it might have against that Agent or in respect of any act or omission of any kind by that officer in connection with any Finance Document. Any officer of an Agent may rely on this Subclause and enforce its terms under the Contracts (Rights of Third Parties) Act 1999.
- (c) Neither Agent is liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by that Agent if that Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by that Agent for that purpose.

- (d) (i) Nothing in this Agreement will oblige any Agent to satisfy any know your customer requirement in relation to the identity of any person on behalf of any Finance Party.
- (ii) Each Finance Party confirms to each Agent that it is solely responsible for any know your customer requirements it is required to carry out and that it may not rely on any statement in relation to those requirements made by any other person.

22.8 Default

- (a) Neither Agent is obliged to monitor or enquire whether a Default has occurred. Neither Agent is deemed to have knowledge of the occurrence of a Default.
- (b) If the Facility Agent:
 - (i) receives notice from a Party referring to this Agreement, describing a Default and stating that the event is a Default; or
 - (ii) is aware of the non-payment of any principal, interest or fee payable to a Lender under any Finance Document,it must promptly notify the Lenders.

22.9 Information

- (a) Each Agent must promptly forward to the person concerned the original or a copy of any document which is delivered to that Agent by a Party for that person.
- (b) Except where a Finance Document specifically provides otherwise, neither Agent is obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) Except as provided above, neither Agent has any duty:
 - (i) either initially or on a continuing basis to provide any Lender with any credit or other information concerning the risks arising under or in connection with the Finance Documents (including any information relating to the financial condition or affairs of any Obligor or its related entities or the nature or extent of recourse against any Party or its assets) whether coming into its possession before, on or after the date of this Agreement; or
 - (ii) unless specifically requested to do so by a Lender in accordance with a Finance Document, to request any certificate or other document from any Obligor.
- (d) In acting as an Agent, that Agent will be treated as acting through its agency division which will be treated as a separate entity from its other divisions and departments. Any information received or acquired by an Agent which, in its opinion, is received or acquired by another division or department or otherwise than in its capacity as an Agent may be treated as confidential by that Agent and will not be treated as information possessed by that Agent in its capacity as such.
- (e) Neither Agent is obliged to disclose to any person any confidential information supplied to it by or on behalf of a member of the Group solely for the purpose of evaluating whether any waiver or amendment is required in respect of any term of the Finance Documents.
- (f) Each Obligor irrevocably authorises each Agent to disclose to the other Finance Parties any information which, in that Agent's opinion, is received by it in its capacity as an Agent.

22.10 Indemnities

- (a) Without limiting the liability of any Obligor under the Finance Documents, each Lender must indemnify each Agent for that Lender's proportion of any loss or liability incurred by that Agent in acting as an Agent, except to the extent that the loss or liability is caused by that Agent's gross negligence or wilful misconduct, provided that this indemnity shall not apply to the costs of the Agent's management time and internal resources.
- (b) A Lender's proportion of the liability or loss set out in paragraph (a) above is the proportion which its participation in the Loans and undrawn Commitments (if any) bear to all the Loans on the date of the demand. If, however, there are no Loans outstanding on the date of demand, then the proportion will be the proportion which its aggregate Commitments bear to the Total Commitments at the date of demand or, if the Total Commitments have been cancelled, bore to the Total Commitments immediately before being cancelled.
- (c) If a Party owes an amount to an Agent under the Finance Documents, that Agent may after giving notice to that Party:
 - (i) deduct from any amount received by it for that Party any amount due to that Agent from that Party under a Finance Document but unpaid; and
 - (ii) apply that amount in or towards satisfaction of the owed amount.

That Party will be regarded as having received the amount so deducted.

22.11 Compliance

Each Agent may refrain from doing anything (including disclosing any information) which might, in its opinion, constitute a breach of any law or regulation or be otherwise actionable at the suit of any person, and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.

22.12 Resignation

- (a) An Agent may resign and appoint any of its Affiliates as its successor Agent by giving notice to the other Finance Parties and the Company.
- (b) Alternatively, an Agent may resign by giving notice to the Finance Parties and the Company, in which case the Majority Lenders may appoint a successor Agent to it.
- (c) If no successor Agent has been appointed under paragraph (b) above within 60 days after notice of resignation was given, the retiring Agent may appoint a successor Agent to it.
- (d) The person(s) appointing a successor Agent must, if practicable, consult with the Company prior to the appointment.
- (e) The resignation of a Security Agent and the appointment of a successor Security Agent will not become effective until the Facility Agent confirms that it is satisfied that the Security Documents (and any related documentation) have been transferred to or into (and where required registered in) the name of the proposed successor Security Agent.
- (f) On satisfying the above conditions, the successor Agent will succeed to the position of the retiring Agent and the term Facility Agent or Security Agent (as applicable) will mean the successor Agent.

- (g) The retiring Agent must, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (h) Upon its resignation becoming effective, this Clause will continue to benefit a retiring Agent in respect of any action taken or not taken by it in connection with the Finance Documents while it was an Agent, and, subject to paragraph (g) above, it will have no further obligations under any Finance Document.
- (i) The Majority Lenders may, by notice to any Agent, require it to resign under paragraph (b) above.
- (j) An Obligor must (at its own cost) take any action and execute any document which is required by the Security Agent so that a Security Document provides for effective and perfected security in favour of any successor Security Agent.

22.13 Relationship with Lenders

- (a) Each Agent may treat each Lender as a Lender, entitled to payments under this Agreement and as acting through its Facility Office(s) until it has received not less than five Business Days' prior notice from that Lender to the contrary.
- (b) The Facility Agent may at any time, and must if requested to do so by the Majority Lenders, convene a meeting of the Lenders.
- (c) The Facility Agent must keep a record of all the Parties and supply any other Party with a copy of the record on request. The record will include each Lender' s Facility Office(s) and contact details for the purposes of this Agreement.

22.14 Agent' s management time

Subject to Subclause 22.10(a), if an Agent requires, any amount payable to that Agent under any indemnity or otherwise in respect of any reasonable costs or expenses incurred by that Agent under the Finance Documents after the date of this Agreement may include the reasonable cost of using its management time or other internal resources and will be calculated on the basis of such reasonable daily or hourly rates as that Agent may notify to the relevant Party. This is in addition to any amount in respect of fees, costs or expenses paid or payable to that Agent under any other term of the Finance Documents.

22.15 Notice period

Where this Agreement specifies a minimum period of notice to be given to the Facility Agent, the Facility Agent may, at its discretion, accept a shorter notice period.

23. EVIDENCE AND CALCULATIONS

23.1 Accounts

Accounts maintained by a Finance Party in connection with this Agreement are prima facie evidence of the matters to which they relate for the purpose of any litigation or arbitration proceedings.

23.2 Certificates and determinations

Any certification or determination by a Finance Party of a rate or amount under the Finance Documents will be, in the absence of manifest error, conclusive evidence of the matters to which it relates.

23.3 Calculations

Any interest or fee accruing under this Agreement accrues from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 or 365 days or otherwise, depending on what the Facility Agent determines is market practice.

24. FEES

24.1 Agents' fees

The Company must pay (or ensure that there is paid) to each Agent for its own account an agency fee in the amount and in the manner agreed in the Fee Letter between that Agent and the Company.

24.2 Arrangement fee

The Company must pay (or ensure that there is paid) an arrangement fee of USD180,000 on the date of this Agreement to be shared among the Lenders in accordance with their Pro-rata Share.

24.3 Revolving Credit commitment fee

(a) The Company must pay to the Facility Agent for the account of each Lender a commitment fee computed as follows:

- (i) at the rate of 0.375 per cent. (0.375%) per annum for each fiscal quarter or part thereof after the date of this Agreement to the first fiscal quarter which ends on a date later than twelve months after the date of this Agreement; and
- (ii) thereafter, with effect from the commencement of each fiscal quarter starting after the date of delivery of a Margin Certificate, at the rate determined by reference to the table below and the information set out in that Margin Certificate

Leverage Ratio	Commitment Fee (per cent. per annum)
Less than 2.00	0.300%
2.00 or greater and less than 2.50	0.350%
2.50 or greater and less than 3.00	0.400%
3.00 or greater	0.450%

on the undrawn, uncanceled amount of each Lender's Revolving Credit Commitments.

- (b) For so long as the Company is in default of its obligation under this Agreement to provide a Margin Certificate the applicable Commitment Fee will be 0.450%.
- (c) Any commitment fee is payable quarterly in arrears and is also payable to the Facility Agent for a Lender on the date its Revolving Credit Commitments are cancelled in full.

25. INDEMNITIES AND BREAK COSTS

25.1 Currency indemnity

(a) The Company must, as an independent obligation, indemnify each Finance Party against any loss or liability which that Finance Party incurs as a consequence of:

- (i) that Finance Party receiving an amount in respect of an Obligor's liability under the Finance Documents; or
- (ii) that liability being converted into a claim, proof, judgment or order,

in a currency other than the currency in which the amount is expressed to be payable under the relevant Finance Document.

(b) Unless otherwise required by law, each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency other than that in which it is expressed to be payable.

25.2 Acquisition indemnity

The Company agrees to indemnify each Finance Party against any loss or liability incurred by that Finance Party in connection with or arising out of the Acquisition or the funding of the Acquisition (including any incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the Acquisition), unless that loss or liability is caused by the gross negligence or wilful misconduct of that Finance Party.

25.3 Other indemnities

(a) The Company must indemnify each Finance Party against any loss or liability which that Finance Party incurs as a consequence of:

- (i) the occurrence of any Default;
- (ii) any failure by an Obligor to pay any amount due under a Finance Document on its due date, including any resulting from any distribution or redistribution of any amount among the Lenders under this Agreement;
- (iii) (other than by reason of gross negligence or wilful default by that Finance Party) a Loan not being made after a Request has been delivered for that Loan; or
- (iv) a Loan (or part of a Loan) not being prepaid in accordance with this Agreement.
- (v) The Company's liability in each case includes any loss or expense on account of funds borrowed, contracted for or utilised to fund any amount payable under any Finance Document, any amount repaid or prepaid or any Loan.

(b) The Company must indemnify the Facility Agent against any loss or liability incurred by the Facility Agent as a result of:

- (i) investigating any event which the Facility Agent reasonably believes to be a Default; or
- (ii) acting or relying on any notice which the Facility Agent reasonably believes to be genuine, correct and appropriately authorised.

25.4 Break Costs

- (a) The Borrower must pay to each Lender its Break Costs if a Loan or overdue amount is repaid or prepaid otherwise than on the last day of any Term applicable to it.
- (b) Break Costs are the amount (if any) determined by the relevant Lender by which:
 - (i) the interest which that Lender would have received for the period from the date of receipt of any part of its share in a Loan or an overdue amount to the last day of the applicable Term for that Loan or overdue amount if the principal or overdue amount received had been paid on the last day of that Term;

exceeds
 - (ii) the amount which that Lender would be able to obtain by placing an amount equal to the amount received by it on deposit with a leading bank in the appropriate interbank market for a period starting on the second Business Day following receipt and ending on the last day of the applicable Term.
- (c) Each Lender must supply to the Facility Agent for the Borrower details of the amount of any Break Costs claimed by it under this Subclause.

26. EXPENSES

26.1 Initial costs

The Company must pay to each Agent the amount of all costs and expenses (including legal fees) reasonably incurred by it or any of its Affiliates in connection with due diligence visits, the negotiation, preparation, printing, entry into and perfection of the Finance Documents and other documents contemplated by the Finance Documents, to the extent that such costs and expenses are not paid by the Seller.

26.2 Subsequent costs

The Company must pay to each Agent the amount of all costs and expenses (including legal fees) reasonably incurred by it or any of its Affiliates in connection with:

- (a) the negotiation, preparation, printing, entry into and perfection of any Finance Document and other documents contemplated by the Finance Documents executed after the date of this Agreement;
- (b) any amendment, waiver or consent made or granted in connection with the Finance Documents; and
- (c) any other matter not of an ordinary administrative nature arising out of or in connection with any Finance Document.

26.3 Enforcement costs

The Company must pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

26.4 Security Agent' s on-going costs

- (a) If:
- (i) a Default occurs;
 - (ii) the Security Agent considers it necessary or expedient; or
 - (iii) the Security Agent is requested by an Obligor or the Majority Lenders to undertake duties which the Security Agent and the Company agree to be of an exceptional nature or outside the scope of the normal duties of the Security Agent under the Security Documents,
- the Company must pay to the Security Agent any additional remuneration which may be agreed between them.
- (b) If the Security Agent and the Company fail to agree:
- (i) whether the duties are of an exceptional nature or outside the scope of the normal duties of the Security Agent; or
 - (ii) the appropriate amount of any additional remuneration,
 - (iii) the dispute will be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Company.
- (c) If the Company does not approve the investment bank selected by the Security Agent, the dispute will be determined by an investment bank nominated (on application by the Security Agent) by the President for the time being of the Law Society of England and Wales.
- (d) The Company must pay the costs of nomination and of the investment bank.
- (e) The determination of any investment bank will be final and binding on the Parties.

27. AMENDMENTS AND WAIVERS

27.1 Procedure

- (a) Except as provided in this Clause, any term of the Finance Documents may be amended or waived with the agreement of the Company and the Majority Lenders. The Facility Agent may effect, on behalf of any Finance Party, an amendment or waiver allowed under this Clause.
- (b) The Facility Agent must promptly notify the other Parties of any amendment or waiver effected by it under paragraph (a) above. Any such amendment or waiver is binding on all the Parties.
- (c) Each Obligor agrees to any amendment or waiver allowed by this Clause which is agreed to by the Company. This includes any amendment or waiver which would, but for this paragraph, require the consent of each Guarantor if the guarantee under the Finance Documents is to remain in full force and effect.

27.2 Exceptions

- (a) An amendment or waiver which relates to:
- (i) the definition of Majority Lenders in Clause 1.1 (Definitions);

- (ii) an extension of the date of payment of any amount to a Lender under the Finance Documents other than under Clauses 7.4 (Mandatory prepayment - disposals) or 7.5 (Mandatory prepayment - Excess Cashflow);
- (iii) a reduction in the Margin or a reduction in the amount of or change in the currency of any payment of principal, interest, fee or other amount payable to a Lender under the Finance Documents other than under Clauses 7.4 (Mandatory prepayment - disposals) or 7.5 (Mandatory prepayment - Excess Cashflow));
- (iv) an increase in, or an extension of, a Commitment or the Total Commitments;
- (v) a release of an Obligor other than in accordance with the terms of this Agreement or a Subordination Agreement;
- (vi) a release of any Security Document other than in accordance with the terms of this Agreement and a Subordination Agreement;
- (vii) a term of a Finance Document which expressly requires the consent of each Lender;
- (viii) the right of a Lender to assign or transfer its rights or obligations under the Finance Documents;
- (ix) the ranking or subordination provided for in a Subordination Agreement; or
- (x) this Clause,

may only be made with the consent of all the Lenders.

- (b) An amendment or waiver which relates to the rights or obligations of an Agent may only be made with the consent of that Agent.
- (c) A Fee Letter may be amended or waived with the agreement of the Agent that is a party to that Fee Letter and the Company.

27.3 Change of currency

If a change in any currency of a country occurs (including where there is more than one currency or currency unit recognised at the same time as the lawful currency of a country), the Finance Documents will be amended to the extent the Facility Agent (acting reasonably and after consultation with the Company) determines is necessary to reflect the change.

27.4 Waivers and remedies cumulative

The rights of each Finance Party under the Finance Documents:

- (a) may be exercised as often as necessary;
- (b) are cumulative and not exclusive of its rights under the general law; and
- (c) may be waived only in writing and specifically.

Delay in exercising or non-exercise of any right is not a waiver of that right.

28. CHANGES TO THE PARTIES

28.1 Assignments and transfers by Obligors

No Obligor may assign or transfer any of its rights and obligations under the Finance Documents without the prior consent of all the Lenders.

28.2 Assignments and transfers by Lenders

- (a) A Lender (the **Existing Lender**) may, subject to the following provisions of this Subclause, at any time assign or transfer (including by way of novation) any of its rights and obligations under this Agreement to any other bank or financial institution or to a trust or fund or other person which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the **New Lender**) provided that it shall at the same time assign or transfer to the New Lender a proportionate share of its rights and obligations (in its capacity as Lender) under or in connection with the other Finance Documents.
- (b) The Facility Agent is not obliged to execute a Transfer Certificate or otherwise give effect to an assignment or transfer until it has completed all know your customer requirements to its satisfaction. The Facility Agent must promptly notify the Existing Lender and the New Lender if there are any such requirements.
- (c) A transfer of obligations will be effective only if the obligations are novated in accordance with the provisions of Subclause 28.3.
- (d) Unless the Facility Agent otherwise agrees, the New Lender must pay to the Facility Agent for its own account, on or before the date any assignment or transfer occurs, a fee of USD1,000.
- (e) Any reference in this Agreement to a Lender includes a New Lender but excludes a Lender if no amount is or may be owed to or by it under this Agreement.
- (f) Notwithstanding any other provisions of this Clause, a Lender may sub-participate or sub-contract all or any part of its obligations under this Agreement.

28.3 Procedure for transfer by novation

- (a) In this Clause:

Transfer Date means, for a Transfer Certificate, the later of:

- (i) the proposed Transfer Date specified in that Transfer Certificate; and
 - (ii) the date on which the Facility Agent executes that Transfer Certificate.
- (b) A novation is effected if:
 - (i) the Existing Lender and the New Lender deliver to the Facility Agent a duly completed Transfer Certificate; and
 - (ii) the Facility Agent executes it.

The Facility Agent must execute as soon as reasonably practicable a Transfer Certificate delivered to it and which appears on its face to be in order.

- (c) Each Party (other than the Existing Lender and the New Lender) irrevocably authorises the Facility Agent to execute any duly completed Transfer Certificate on its behalf.
- (d) On the Transfer Date:
 - (i) the New Lender will assume the rights and obligations of the Existing Lender expressed to be the subject of the novation in the Transfer Certificate in substitution for the Existing Lender;
 - (ii) the Existing Lender will be released from those obligations and cease to have those rights; and
 - (iii) the New Lender will become a party to this Agreement as a Lender.
- (e) The Facility Agent must, as soon as reasonably practicable after it has executed a Transfer Certificate, send a copy of that Transfer Certificate to the Company.

28.4 Limitation of responsibility of Existing Lender

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
 - (i) the financial condition of any Obligor;
 - (ii) the legality, validity, effectiveness, enforceability, adequacy, accuracy, completeness or performance of:
 - (A) any Finance Document or any other document;
 - (B) any statement or information (whether written or oral) made in or supplied in connection with any Finance Document; or
 - (C) any observance by any Obligor of its obligations under any Finance Document or any other document, and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:
 - (i) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Finance Documents (including the financial condition and affairs of each Obligor and its related entities and the nature and extent of any recourse against any Party or its assets) in connection with its participation in this Agreement;
 - (ii) has not relied exclusively on any information supplied to it by the Existing Lender in connection with any Finance Document; and
 - (iii) is a person whose ordinary business includes participation in syndicated facilities of this type.
- (c) Nothing in any Finance Document requires an Existing Lender to:
 - (i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause; or

- (ii) support any losses incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under any Finance Document or otherwise.

28.5 Costs resulting from change of Lender or Facility Office

If:

- (a) a Lender assigns or transfers any of its rights and obligations under the Finance Documents or changes its Facility Office; and
- (b) as a result of circumstances existing at the date the assignment, transfer or change occurs and as a result of the assignment, transfer or change, an Obligor would be or become obliged to pay a Tax Payment or an Increased Cost,

then, unless the assignment, transfer or change is made by a Lender in order to mitigate any circumstances giving rise to the Tax Payment, Increased Cost or a right to be prepaid and/or cancelled by reason of illegality, the Obligor need only pay that Tax Payment or Increased Cost to the same extent that it would have been obliged to if no assignment, transfer or change had occurred.

28.6 Additional Guarantors

- (a) If the accession of an Additional Guarantor requires any Finance Party to carry out know your customer requirements in circumstances where the necessary information is not already available to it, the Company must promptly on request by any Finance Party supply to that Finance Party any documentation or other evidence which is reasonably requested by that Finance Party (whether for itself, on behalf of any Finance Party or any prospective new Lender) to enable a Finance Party or prospective new Lender to carry out and be satisfied with the results of all applicable know your customer requirements.
- (b) The Company must ensure that any person required under this Agreement to become a Guarantor supplies to the Facility Agent all of the documents and evidence set out in Part 3 (Additional Guarantor) of Schedule 2 (Conditions precedent documents) in form and substance satisfactory to it.
- (c) The relevant Subsidiary will become an Additional Guarantor on the date of the Accession Agreement executed by it.
- (d) The Company must comply with its obligations under Clause 19.29(b) (Guarantees) within 14 days of the relevant person becoming a Subsidiary or, if Clause 19.29(c) (Guarantees) applies, it ceasing to be unlawful or result in personal liability for the relevant person's directors or other management for that person to become a Guarantor.
- (e) Delivery of an Accession Agreement, executed by the relevant Subsidiary and the Company, to the Facility Agent constitutes confirmation by that Subsidiary and the Company that the Repeating Representations are then correct.
- (f) Each member of the Group must promptly give the Facility Agent all assistance it reasonably requires in relation to the guarantees and security to be granted pursuant to this Agreement including promptly answering all reasonable questions and requisitions of the Facility Agent and its advisors in relation to the assets of the Group.

28.7 Changes to the Reference Banks

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an Affiliate) ceases to be a Lender, the Facility Agent must (in consultation with the Company) appoint another Lender or an Affiliate of a Lender to replace that Reference Bank.

28.8 Affiliates of Lenders

- (a) Each Lender may fulfil its obligations in respect of any Loan through an Affiliate if:
- (i) the relevant Affiliate is specified in this Agreement as a Lender or becomes a Lender by means of a Transfer Certificate in accordance with this Agreement; and
 - (ii) the Loan in which that Affiliate will participate are specified in this Agreement or in a notice given by that Lender to the Facility Agent and the Company.

In this event, the Lender and the Affiliate will participate in that Loan in the manner provided for in subparagraph (ii) above.

- (b) If paragraph (a) applies, the Lender and its Affiliate will be treated as having a single Commitment and a single vote, but, for all other purposes, will be treated as separate Lenders.

29. DISCLOSURE OF CONFIDENTIAL INFORMATION

- (a) Each Lender acknowledges that members of the Group are indirect subsidiaries of a publicly-traded company and that it will be receiving (and has the right hereunder to receive) material non-public information the confidentiality of which must be maintained. Accordingly, each Lender agrees to maintain the confidentiality of the Confidential Information (as defined below), except that Confidential Information may be disclosed:
- (i) on a “need-to-know” basis only, to its Affiliates and to its and its Affiliates’ respective partners, directors, officers, advisors and other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Confidential Information and instructed to keep such Confidential Information confidential),
 - (ii) to the extent requested by any regulatory authority purporting to have jurisdiction over it,
 - (iii) to the extent required by any governmental rule or by any subpoena or similar legal process,
 - (iv) to any other party hereto,
 - (v) in connection with the exercise of any remedies under any Finance Document or any action or proceeding relating to any Finance Document or the enforcement of rights thereunder,
 - (vi) subject to an agreement containing provisions substantially the same as those of this Clause 29, to any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under this Agreement,
 - (vii) with the consent of the Borrower, or
 - (viii) to the extent such Confidential Information,
 - (A) becomes publicly available other than as a result of a breach of this Clause 29 or

(B) becomes available to Lender or its respective Affiliates on a non-confidential basis from a source other than an Obligor.

- (b) For purposes of this Clause 29, **Confidential Information** means all information received from any member of the Merix Group, other than any such information that is available on a non-confidential basis prior to disclosure by a member of the Merix Group.
- (c) This Clause supersedes any previous confidentiality undertaking given by a Finance Party in connection with this Agreement prior to it becoming a Party.

30. SET-OFF

A Finance Party may set off any matured obligation owed to it by an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any obligation (whether or not matured) owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. A Finance Party may also at any time after the occurrence of a Default combine or consolidate accounts held with it by any Obligor.

31. PRO RATA SHARING

31.1 Redistribution

If any amount owing by an Obligor under any of the Finance Documents to a Finance Party (the recovering Finance Party) is discharged by payment, set-off or any other manner other than in accordance with this Agreement (a recovery), then:

- (a) the recovering Finance Party must, within three Business Days, supply details of the recovery to the Facility Agent;
- (b) the Facility Agent must calculate whether the recovery is in excess of the amount which the recovering Finance Party would have received if the recovery had been received by the Facility Agent under this Agreement; and
- (c) the recovering Finance Party must pay to the Facility Agent an amount equal to the excess (the redistribution).

31.2 Effect of redistribution

- (a) The Facility Agent must treat a redistribution as if it were a payment by the relevant Obligor under this Agreement and distribute it among the Finance Parties, other than the recovering Finance Party, accordingly.
- (b) When the Facility Agent makes a distribution under paragraph (a) above, the recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in that redistribution.
- (c) If and to the extent that the recovering Finance Party is not able to rely on any rights of subrogation under paragraph (b) above, the relevant Obligor will owe the recovering Finance Party a debt which is equal to the redistribution, immediately payable and of the type originally discharged.
- (d) If:
 - (i) a recovering Finance Party must subsequently return a recovery, or an amount measured by reference to a recovery, to an Obligor; and

- (ii) the recovering Finance Party has paid a redistribution in relation to that recovery,

each Finance Party must reimburse the recovering Finance Party all or the appropriate portion of the redistribution paid to that Finance Party, together with interest for the period while it held the redistribution. In this event, the subrogation in paragraph (b) above will operate in reverse to the extent of the reimbursement.

31.3 Exceptions

Notwithstanding any other term of this Clause, a recovering Finance Party need not pay a redistribution to the extent that:

- (a) it would not, after the payment, have a valid claim against the relevant Obligor in the amount of the redistribution; or
- (b) it would be sharing with another Finance Party any amount which the recovering Finance Party has received or recovered as a result of legal or arbitration proceedings, where:
 - (i) the recovering Finance Party notified the Facility Agent of those proceedings; and
 - (ii) the other Finance Party had an opportunity to participate in those proceedings but did not do so or did not take separate legal or arbitration proceedings as soon as reasonably practicable after receiving notice of them.

32. SEVERABILITY

If a term of a Finance Document is or becomes illegal, invalid or unenforceable in any respect under any jurisdiction in relation to any party to that Finance Document, that will not affect:

- (a) in respect of such party the legality, validity or enforceability in that jurisdiction of any other term of the Finance Documents;
- (b) in respect of any other party to such Finance Document the legality, validity or enforceability in that jurisdiction of that or any other term of the Finance Documents; or
- (c) in respect of any party to such Finance Document the legality, validity or enforceability in other jurisdictions of that or any other term of the Finance Documents.

33. COUNTERPARTS

Each Finance Document may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

34. NOTICES

34.1 In writing

- (a) Any communication in connection with a Finance Document must be in writing and, unless otherwise stated, may be given:
 - (i) in person, by post or fax; or

(ii) to the extent agreed by the Parties, by e-mail or other electronic communication.

(b) For the purpose of the Finance Documents, an electronic communication will be treated as being in writing and a document.

(c) Unless it is agreed to the contrary, any consent or agreement required under a Finance Document must be given in writing.

34.2 Contact details

(a) Except as provided below, the contact details of each Party for all communications in connection with the Finance Documents are those notified by that Party for this purpose to the Facility Agent on or before the date it becomes a Party.

(b) The contact details of the Borrower for this purpose are:

Address: c/o Merix Corporation
1521 Poplar Lane, Forest Grove
Oregon, 97116
United States of America

Fax number: +1 503 357 1504

Attention: Chief Financial Officer

with copies to: Perkins Coie LLP
1120 N.W. Couch Street
Tenth Floor
Portland, Oregon 97209-4128
Attention: George K. Fogg
Telephone No.: (503) 727-2022
Telecopy No.: (503) 346-2022

Merix Caymans Trading Company Limited
2 Chun Yat Street
Tseung Kwan O Industrial Estate
Tseung Kwan O, Kowloon
Hong Kong
Attention: Chief Financial Officer

(c) The contact details of the Company for this purpose are:

Address: c/o Merix Corporation
1521 Poplar Lane, Forest Grove
Oregon, 97116
United States of America

Fax number: +1 503 357 1504

Attention: Chief Financial Officer

with a copy to the Borrower.

(d) The contact details of the Facility Agent for this purpose are:

Address: 11/F., Standard Chartered Tower
388 Kwun Tong Road
Kwun Tong, Kowloon
Hong Kong

Fax number: (852) 2810 0180

E-mail: jacky.cp.chan@hk.standardchartered.com
Attention: Loans & Agency

- (e) Any Party may change its contact details by giving five Business Days' notice to the Facility Agent or (in the case of the Facility Agent) to the other Parties.
- (f) Where a Party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

34.3 Effectiveness

- (a) Except as provided below, any communication in connection with a Finance Document will be deemed to be given as follows:
 - (i) if delivered in person, at the time of delivery;
 - (ii) if posted, five days after being deposited in the post, postage prepaid, in a correctly addressed envelope;
 - (iii) if by fax, when received in legible form;
 - (iv) if by e-mail or any other electronic communication, when received in legible form; and
 - (v) if by posting to an electronic website, at the later of the time of posting or (if the relevant recipient did not at such time have access to such website) the time at which such recipient is given access or the date on which recipient is notified by sender that such a posting has been made.
- (b) A communication given under paragraph (a) above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.
- (c) A communication to the Facility Agent will only be effective on actual receipt by it.

34.4 Obligors

- (a) All communications under the Finance Documents to or from an Obligor must be sent through the Facility Agent.
- (b) All communications under the Finance Documents to or from an Obligor (other than the Company) must be sent through the Company.
- (c) Each Obligor (other than the Company) irrevocably appoints the Company to act as its agent:
 - (i) to give and receive all communications under the Finance Documents;
 - (ii) to supply all information concerning itself to any Finance Party; and
 - (iii) to sign all documents under or in connection with the Finance Documents.

(d) Any communication given to the Company in connection with a Finance Document will be deemed to have been given also to the other Obligor.

(e) Each Finance Party may assume that any communication made by the Company is made with the consent of each other Obligor.

34.5 Use of websites

(a) Except as provided below, the Company may deliver any information under this Agreement to a Lender by posting it on to an electronic website if:

- (i) the Facility Agent and the Lender agree;
- (ii) the Company and the Facility Agent designate an electronic website for this purpose;
- (iii) the Company notifies the Facility Agent of the address of and password for the website; and
- (iv) the information posted is in a format agreed between the Company and the Facility Agent.

The Facility Agent must supply each relevant Lender with the address of and password for the website.

(b) Notwithstanding the above, the Company must supply to the Facility Agent in paper form a copy of any information posted on the website together with sufficient copies for:

- (i) any Lender not agreeing to receive information via the website; and
- (ii) within 10 Business Days of request any other Lender, if that Lender so requests.

(c) The Company must, promptly upon becoming aware of its occurrence, notify the Facility Agent if:

- (i) the website cannot be accessed;
- (ii) the website or any information on the website is infected by any electronic virus or similar software;
- (iii) the password for the website is changed; or
- (iv) any information to be supplied under this Agreement is posted on the website or amended after being posted.

If the circumstances in sub-paragraphs (i) or (ii) above occur, the Company must supply any information required under this Agreement in paper form until the Facility Agent is satisfied that the circumstances giving rise to the notification are no longer continuing.

34.6 Personal Liability

If an individual signs a certificate on behalf of any Party and the certificate proves to be incorrect, the individual will incur no personal liability as a result, unless the individual acted fraudulently or recklessly in giving the certificate. In this case any liability of the individual will be determined in accordance with applicable law.

35. LANGUAGE

(a) Any notice given in connection with a Finance Document must be in English.

- (b) Any other document provided in connection with a Finance Document must be:
 - (i) in English; or
 - (ii) (unless the Facility Agent otherwise agrees) accompanied by a certified English translation. In this case, the English translation prevails unless the document is a statutory or other official document.

36. GOVERNING LAW

This Agreement is governed by English law.

37. ENFORCEMENT

37.1 Jurisdiction

- (a) The English courts have exclusive jurisdiction to settle any dispute in connection with any Finance Document.
- (b) The English courts are the most appropriate and convenient courts to settle any such dispute in connection with any Finance Document. Each Obligor agrees not to argue to the contrary and waives objection to those courts on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with any Finance Document.
- (c) This Clause is for the benefit of the Finance Parties only. To the extent allowed by law, a Finance Party may take:
 - (i) proceedings in any other court; and
 - (ii) concurrent proceedings in any number of jurisdictions.
- (d) References in this Clause to a dispute in connection with a Finance Document include any dispute as to the existence, validity or termination of that Finance Document.

37.2 Service of process

- (a) Each Obligor not incorporated in England and Wales irrevocably appoints Merix UK Limited as its agent under the Finance Documents for service of process in any proceedings before the English courts in connection with any Finance Document.
- (b) If any person appointed as process agent under this Clause is unable for any reason to so act, the Company (on behalf of all the Obligors) must immediately (and in any event within 30 days of such event taking place) appoint another process agent on terms acceptable to the Facility Agent. Failing this, the Facility Agent may appoint another process agent for this purpose.
- (c) Each Obligor agrees that failure by a process agent to notify it of any process will not invalidate the relevant proceedings.
- (d) This Subclause does not affect any other method of service allowed by law.

37.3 Waiver of immunity

Each Obligor irrevocably and unconditionally:

- (a) agrees not to claim any immunity from proceedings brought by a Finance Party against it in relation to a Finance Document and to ensure that no such claim is made on its behalf;

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- (b) consents generally to the giving of any relief or the issue of any process in connection with those proceedings; and
 - (c) waives all rights of immunity in respect of it or its assets.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

ORIGINAL PARTIES

PART 1

ORIGINAL OBLIGORS

Name of Original Borrower _____	Registration number (or equivalent, if any) _____
Merix Caymans Trading Company Limited	CT-152271
Name of Original Guarantor _____	Registration number (or equivalent, if any) _____
Merix Caymans Holding Company Limited	CT-153771
Merix Caymans Trading Company Limited	CT-152271
Merix Singapore Sales Pte. Ltd.	200510457M
Merix Manufacturing (Hong Kong) Limited	981407
Merix UK Limited	5472864

PART 2

ORIGINAL LENDERS

Name of Original Lenders	Term Loan	Revolving Credit
	Commitments (USD)	Commitment (USD)
1. Banca Nazionale del Lavoro S.p.A., Hong Kong Branch	2,166,667	433,333
2. CITIC Ka Wah Bank Limited	1,500,000	300,000
3. Commerz (East Asia) Limited	2,166,667	433,333
4. DBS Bank Ltd.	833,333	166,667
5. IKB Deutsche Industriebank AG	833,333	166,667
6. JPMorgan Chase Bank, N.A.	1,666,667	333,333
7. KBC Bank N.V.	1,500,000	300,000
8. Lehman Brothers Commercial Corporation Asia Limited	1,666,667	333,333
9. Malayan Banking Berhad	1,500,000	300,000
10. Rabobank International Hong Kong Branch	1,666,667	333,333
11. Standard Chartered Bank (Hong Kong) Limited	2,833,333	566,667
12. Sumitomo Mitsui Banking Corporation	833,333	166,667
13. The Bank of Nova Scotia	2,166,667	433,333
14. UFJ Bank Limited	1,500,000	300,000
15. United Overseas Bank Limited, Hong Kong	2,166,667	433,333

CONDITIONS PRECEDENT DOCUMENTS

PART 1

TO BE DELIVERED BEFORE THE FIRST UTILISATION

Original Obligor

1. A copy of the constitutional documents of each Original Obligor.
2. A copy of a resolution of the board of directors of each Original Obligor approving the terms of, the transactions contemplated by, and the execution, delivery and performance of the Finance Documents.
3. A specimen of the signature of each person authorised on behalf of an Original Obligor to execute or witness the execution of any Finance Document or to sign or send any document or notice in connection with any Finance Document.
4. In the case of each Original Guarantor (other than the Company), a copy of a resolution signed by the Borrower as the sole holder of the issued or allotted shares in that Original Guarantor approving the terms of, the transactions contemplated by, and the execution, delivery and performance of the Finance Documents.
5. In the case of each Original Guarantor (other than the Company), a copy of a resolution of the board of directors of the Borrower, being the sole shareholder in that Original Guarantor, approving the terms of the resolution referred to in paragraph 4 above.
6. A certificate of an authorised signatory of the Company:
 - (a) confirming that utilisation of the Total Commitments in full will not breach any limit binding on any Original Obligor; and
 - (b) certifying that each copy document specified in this Part 1 of Schedule 2 is correct and complete and that the original of each of those documents is in full force and effect and has not been amended or superseded as at the Closing Date.
7. Evidence that each agent of the relevant Original Obligor under the Finance Documents for service of process in England, Singapore and Hong Kong has accepted its appointment.
8. Evidence that the procedure contemplated by sections 47E-48 of the Companies Ordinance of Hong Kong by Eastern Pacific Circuits Investments Limited has been completed including a copy of its board resolutions, a copy of Form SC7 signed by a majority of its directors and to be filed with the Companies Registry of Hong Kong and a copy of its register of directors and shareholders.

Acquisition Documents

9. A certified copy of each Acquisition Document duly executed by all parties to it.
10. A certified copy of the Seller Loan Note Instrument, duly executed by each of the parties to it.

Finance Documents

11. Originals of each of the following Finance Documents duly executed by each of the parties to it:
 - (a) this Agreement;
 - (b) the Fee Letter;
 - (c) each Subordination Agreement;
 - (d) the Merix Letter of Support;
 - (e) each Security Document identified in Schedule 5 (Security Documents) as having to be in effect on the Closing Date; and
 - (f) the Lomber Equity Pledge and the Dongguan Equity Pledge executed by each of the parties to it;
 - (g) a certificate of an authorised signatory of the Company that it will procure that EPC Lomber and EPC Dongguan ratify the signing to the Lomber Equity Pledge and the Dongguan Equity Pledge (as referred to in Schedule 5 (Security Documents)) respectively as soon as practicable and in any event within twenty-one days after Closing;
 - (h) Any other document which the Company and the Facility Agent designate as a Finance Document prior to the Closing Date.

Security

12. A copy of all notices required to be sent and other documents required to be executed under the Security Documents identified in Schedule 5 (Security Documents) as having to be in effect on the Closing Date, together with acknowledgements of such notices where applicable.
13. All other documents, share certificates, title documents and consents required under the Security Documents at that time or otherwise relating to assets charged by the Security Documents identified in Schedule 5 (Security Documents) as having to be in effect on the Closing Date.

Legal opinions

14. A legal opinion of Allen & Overy, legal advisers as to matters of English law to the Finance Parties, addressed to the Finance Parties.
15. Legal opinions of counsel approved by the Facility Agent in respect of the laws of the jurisdiction in which each Original Obligor is incorporated and, if different, in respect of the laws governing each Security Document, addressed to the Finance Parties.

Other documents and evidence

16. An original of an amendment letter in relation to the Capex Facility Agreement, duly executed by all parties to it.
17. A copy of the Closing Confirmation Notice executed by all parties to it.
18. A copy of the executed service contracts for each Executive Officer.

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19. Evidence that all fees and expenses (including legal fees of the Agents) then due and payable by the Company and the Borrower under this Agreement have been or will be paid on or before the first Utilisation Date.
 20. A copy of any other authorisation or other document, opinion or assurance which the Facility Agent notifies the Company is necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, any Finance Document or for the validity and enforceability of any Finance Document.
 21. Copies of such documents as each of the Lenders may reasonably require to comply with their know your customer requirements.

Additional Guarantor

22. The Accession Agreement duly executed by Eastern Pacific Circuits Investments Limited.
23. The further documentation referred to in Part 3 of this Schedule in respect of Eastern Pacific Circuits Investments Limited as an Additional Guarantor and Obligor.

TO BE DELIVERED BEFORE SECOND UTILISATION

1. A copy of the constitutional documents of Eastern Pacific Circuits Investments (Singapore) Pte. Ltd., to be renamed as Merix Holding (Singapore) Pte. Ltd. (**Merix Holding Singapore**).
2. A copy of a resolution of the board of directors of Merix Holding Singapore approving the terms of, the transactions contemplated by, and the execution, delivery and performance of the Finance Documents to which it is a party.
3. A specimen of the signature of each person authorised on behalf of Merix Holding Singapore to execute or witness the execution of any Finance Document or to sign or send any document or notice in connection with any Finance Document.
4. A copy of a resolution signed by the Borrower as the sole holder of the issued or allotted shares in Merix Holding Singapore approving the terms of, the transactions contemplated by, and the execution, delivery and performance of the Finance Documents.
5. A copy of a resolution of the board of directors of the Borrower, being the sole shareholder in Merix Holding Singapore, approving the terms of the resolution referred to in paragraph 4 above.
6. A certificate of an authorised signatory of Merix Holding Singapore:
 - (a) confirming that utilisation of the Total Commitments in full will not breach any limit binding on it; and
 - (b) certifying that each copy document specified in this Part 2 of Schedule 2 is correct and complete and that the original of each of those documents is in full force and effect and has not been amended or superseded as at the second Utilisation Date.
7. Evidence that the agent of Merix Holding Singapore under the Finance Documents for service of process in England has accepted its appointment.
8. Evidence that Merix Holding Singapore has completed the whitewash procedure for financial assistance in accordance with section 76 of the Companies Act of Singapore.
9. An original of each of the following documents duly executed by each party to it:
 - (a) an Accession Agreement entered into by Merix Holding Singapore;
 - (b) the further documentation referred to in Part 3 of this Schedule in respect of Merix Holding Singapore as an Additional Guarantor and Obligor; and
 - (c) each Security Document identified in Schedule 5 (Security Documents) as having to be in effect within 180 days of this Agreement (the **Second Drawdown Security Documents**).
10. A copy of all notices required to be sent and other documents required to be executed under each of the Second Drawdown Security Documents, together with acknowledgements of such notices where applicable.
11. All other documents, share certificates, title documents and consents required under the Security Documents at that time or otherwise relating to assets charged by each of the Second Drawdown Security Documents.

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12. Evidence that each Second Drawdown Security Document has been, where required, registered or approved by the relevant governmental authorities or otherwise perfected.
 13. Legal opinions of counsel approved by the Facility Agent in respect of the laws of Singapore and, if different, in respect of the laws governing each Finance Document to which Merix Holding Singapore is a party, addressed to the Finance Parties.
 14. Evidence that all expenses due and payable from the Company under this Agreement in respect of the Finance Documents to which Merix Holding Singapore is a party have been paid.
 15. A copy of any other authorisation or other document, opinion or assurance which the Facility Agent notifies the Company is necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, the Finance Documents or for the validity and enforceability of any Finance Document.

TO BE DELIVERED IN RESPECT OF AN ADDITIONAL GUARANTOR

Additional Guarantors

1. An Accession Agreement, duly executed by the Company and the Additional Guarantor.
2. Security Document(s) over its assets, duly executed by the Additional Guarantor.
3. A copy of the constitutional documents of the Additional Guarantor.
4. A copy of a resolution of the board of directors of the Additional Guarantor (or a committee of its board of directors) approving the terms of, the transactions contemplated by, and the execution, delivery and performance of the Accession Agreement and the Finance Documents to which it is acceding.
5. If applicable, a copy of a resolution of the board of directors of the Additional Guarantor establishing the committee referred to in paragraph 4 above.
6. A specimen of the signature of each person authorised on behalf of the Additional Guarantor to execute or witness the execution of any Finance Document or to sign or send any document or notice in connection with any Finance Document.
7. A copy of a resolution, signed by all (or any lower percentage agreed by the Facility Agent) of the holders of the issued or allotted shares in the Additional Guarantor, approving the terms of, the transactions contemplated by, and the execution, delivery and performance of the Accession Agreement and the Finance Documents to which it is acceding.
8. If applicable, a copy of a resolution of the board of directors of each corporate shareholder in the Additional Guarantor approving the resolution referred to in paragraph 7 above.
9. A certificate of an authorised signatory of the Additional Guarantor:
 - (a) confirming that utilising the Total Commitments in full would not breach any limit binding on it; and
 - (b) certifying that each copy document specified in this Part 3 of Schedule 2 is correct and complete and that the original of each of those documents is in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Agreement.
10. If available, a copy of the latest audited accounts of the Additional Guarantor.
11. For any Additional Guarantor which is not incorporated under the laws of England and Wales, evidence that its agent under the Finance Documents for service of process in England has accepted its appointment.

Legal opinions

12. Legal opinions of counsel approved by the Facility Agent in respect of the laws of the jurisdiction of incorporation of the Additional Guarantor (other than Merix Holding HK) and, if different, in respect of the laws governing each Security Document to which the Additional Guarantor is acceding, addressed to the Finance Parties.

Other documents and evidence

13. Evidence that all expenses due and payable from the Company under this Agreement in respect of the Accession Agreement have been paid.
14. A copy of any other authorisation or other document, opinion or assurance which the Facility Agent notifies the Company is necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, the Accession Agreement or for the validity and enforceability of any Finance Document.

PART 4

TO BE DELIVERED IN RESPECT OF ADDITIONAL SECURITY

1. A copy of the constitutional documents of the relevant Obligor.
2. A copy of a resolution of the board of directors of the relevant Obligor (or a committee of its board of directors) approving the terms of, the transactions contemplated by, and the execution, delivery and performance of the Security Document.
3. If applicable, a copy of a resolution of the board of directors of the relevant Obligor establishing the committee referred to in paragraph 3 above.
4. A specimen of the signature of each person authorised on behalf of the relevant Obligor to execute or witness the execution of the Security Document or to sign or send any document or notice in connection with such Security Document.
5. A copy of a resolution, signed by all (or any lower percentage agreed by the Facility Agent) of the holders of the Obligor' s issued or allotted shares, approving the execution of the Security Document.
6. If applicable, a copy of a resolution of the board of directors of each corporate shareholder in the Obligor approving the resolution referred to in paragraph 5 above.
7. A certificate of an authorised signatory of the relevant Obligor certifying that each copy document specified in Part 4 of this Schedule 2 is correct and complete and that the original of those documents is in full force and effect and has not been amended or superseded as at a date no earlier than the date of the additional Security Document.
8. A legal opinion of counsel approved by the Facility Agent in respect of the laws of the jurisdiction in which the relevant Obligor is incorporated, and, if different, in respect of the laws governing the additional Security Document, addressed to the Finance Parties.
9. A copy of all notices required to be sent or other documents required to be executed under the Security Document, together with acknowledgements of such notices where applicable.
10. All other documents, share certificates, title documents and consents required under the Security Document at that time or otherwise relating to assets charged by the Security Document.
11. A copy of any other authorisation or other document, opinion or assurance which the Facility Agent notifies the Company is necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, the Security Document or for the validity and enforceability of any Finance Document.

FORM OF CLOSING CONFIRMATION NOTICE

Merix/EPC acquisition

1. Background

Reference is made to the payment direction notice between the parties dated [*date*] (the **Payment Direction Notice**).

Terms defined in the Payment Direction Notice have the same meanings when used in this confirmation.

2. Confirmation

- (a) The Facility Agent acknowledges that it has received all amounts payable to it in accordance with the Payment Direction Notice.
- (b) The Seller and the Purchaser confirm that all conditions precedent to the Acquisition, save for payment of the Initial Consideration which will occur immediately following the execution of this confirmation, have been unconditionally and irrevocably satisfied or waived.
- (c) The Facility Agent confirms that all conditions precedent to drawdown under the Merix Credit Agreement have been unconditionally and irrevocably satisfied or waived.
- (d) Following the execution of this confirmation, the Facility Agent shall apply amounts received in accordance with the Payment Direction Notice as contemplated by the Payment Direction Notice.

We agree to the above.

EASTERN PACIFIC CIRCUITS HOLDINGS LIMITED

MERIX CAYMANS TRADING COMPANY LIMITED

MERIX MANUFACTURING (HONG KONG) LIMITED

MERIX CORPORATION

STANDARD CHARTERED BANK (HONG KONG) LIMITED
in its capacity as Administrative Agent

STANDARD CHARTERED BANK (HONG KONG) LIMITED
in its capacity as Facility Agent

SCHEDULE 3

FORM OF REQUEST

To: Standard Chartered Bank (Hong Kong) Limited as Facility Agent

From: Merix Caymans Trading Company Limited

Date: []

**USD30,000,000 Credit Agreement
dated [] 2005 (the Agreement)**

1. We refer to the Agreement. This is a Request. Terms defined in the Agreement have the same meaning when used in this Request.
2. We wish to borrow a Term Loan/Revolving Credit Loan on the following terms:
 - (a) Utilisation Date: []
 - (b) Amount/currency: []
 - (c) Term: [].
3. Our payment instructions are: [].
4. We confirm that each condition precedent under the Agreement which must be satisfied on the date of this Request is so satisfied.
5. This Request is irrevocable.

By:

Merix Caymans Trading Company Limited

FORM OF TRANSFER CERTIFICATE

To: Standard Chartered Bank (Hong Kong) Limited as Facility Agent
From: [THE EXISTING LENDER] (the Existing Lender) and [THE NEW LENDER] (the New Lender)
Date: []

**Merix Caymans Trading Company Limited - USD30,000,000 Credit Agreement
dated [] 2005 (the Agreement)**

1. We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning when used in this Transfer Certificate.
2. The Existing Lender transfers by novation to the New Lender all the rights and obligations of the Existing Lender which correspond to that portion of the Existing Lender's Commitments and participations in Loans under the Agreement specified in the schedule to this Transfer Certificate (the **Schedule**) in accordance with the terms of the Agreement.
3. The proposed Transfer Date is [].
4. On the Transfer Date the New Lender becomes party to the Agreement as a Lender.
5. The administrative details of the New Lender for the purposes of the Agreement are set out in the Schedule.
6. The New Lender expressly acknowledges the limitations on the Existing Lender's obligations in respect of this Transfer Certificate contained in the Agreement.
7. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of the Transfer Certificate.
8. This Transfer Certificate has been [executed and delivered as a deed] [entered into] on the date stated at the beginning of this Transfer Certificate and is governed by English law.

THE SCHEDULE

Rights and obligations to be transferred by novation

[insert relevant details, including applicable Commitment (or part) and participation in Loans]

PART 1

COMMITMENTS

Term Loan Commitments

Revolving Credit Loans Commitments

PART 2

PARTICIPATIONS IN LOANS

Term Loans

Revolving Credit Loans

Administrative details of the New Lender

[insert details of Facility Office, address for notices and payment details etc.]

[EXISTING LENDER]

[NEW LENDER]

The Transfer Date is confirmed by the Facility Agent as [].

FACILITY AGENT

By:

As Facility Agent
and for and on behalf of
each of the parties to the Agreement (other
than the Existing Lender and the New Lender)

Note: The execution of this Transfer Certificate may not transfer a proportionate share of the Existing Lender' s interest in security in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents or other formalities are required to perfect a transfer of such a share in the Existing Lender' s security in any jurisdiction and, if so, to arrange for execution of those documents and completion of those formalities.

SCHEDULE 5

SECURITY DOCUMENTS

<u>Security Document</u>	<u>Description</u>	<u>Time limit to effect security</u>
Master Security Deed	All present and future assets of Merix Caymans Holding Company Limited, Merix Caymans Trading Company Limited, Merix Manufacturing (Hong Kong) Limited, Eastern Pacific Circuits Investments Limited and Merix UK Limited (including its shareholding in any other subsidiaries)	On the Closing Date
Merix Holding Singapore Security Deed	All present and future assets of Eastern Pacific Circuits Investments (Singapore) Pte. Ltd., (to be renamed as Merix Holding (Singapore) Pte. Ltd.)	Within 180 days after the date of this Agreement
Merix Singapore Sales Security Deed	All present and future assets of Merix Singapore Sales Pte. Ltd.	On the Closing Date
Singapore Share Mortgage	All of Merix Caymans Trading Company Limited' s present and future shareholding in Merix Singapore Sales Pte. Ltd. and Eastern Pacific Circuits Investments (Singapore) Pte. Ltd. (to be renamed as Merix Holding (Singapore) Pte. Ltd.)	On the Closing Date
UK Share Mortgage	All of Merix Caymans Trading Company Limited' s present and future shareholding in Merix UK Limited	On the Closing Date
Lomber Equity Pledge	90% equity interest in Lomber (Huizhou) Limited (to be renamed as Merix Lomber Printed Circuits (Huizhou) Limited) owned by Eastern Pacific Circuits Investments Limited	Within 21 days after the date of this Agreement
Dongguan Equity Pledge	85.29% equity interest in EPC (Dongguan) Limited (to be renamed as Merix Printed Circuits (Dongguan) Limited) owned by Eastern Pacific Circuits Investments Limited	Within 21 days after the date of this Agreement
MHY Equity Pledge	95% equity interest in Eastern Pacific Circuits (Huiyang) Limited (to be renamed as Merix Printed Circuits (Huiyang) Limited) owned by Eastern Pacific Circuits Investments (Singapore) Pte. Ltd.	Within 180 days after the date of this Agreement
MHZ Equity Pledge	85% equity interest in Eastern Pacific Circuits (Huizhou) Limited (to be renamed as Merix Printed Circuits (Huizhou) Limited) owned by Eastern Pacific Circuits Investments (Singapore) Pte. Ltd.	Within 180 days after the date of this Agreement

FORM OF COMPLIANCE CERTIFICATE

To: Standard Chartered Bank (Hong Kong) Limited as Facility Agent

From: Merix Caymans Trading Company Limited

Date: []

**USD30,000,000 Credit Agreement
dated [] 2005 (the Agreement)**

1. We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate.
2. We confirm that as at [relevant testing date]:
 - (a) Consolidated EBITDA was [] and Consolidated Total Debt Service was []; therefore, the Fixed Charges Coverage Ratio was [] to 1;
 - (b) Consolidated Total Borrowings were [] and Consolidated EBITDA was []; therefore, the Leverage Ratio was [] to 1;
 - (c) Consolidated EBITDA was [] and Consolidated Total Interest Payable was []; therefore, the Interest Coverage Ratio was [] to 1;
 - (d) the level of Capital Expenditure was [];
 - (e) the level of Excess Cashflow was [].
3. We set out below calculations establishing the figures in paragraph 2 above:
[].
4. We confirm that the following companies were Subsidiaries at [relevant testing date]:
[].
5. We confirm that as at [relevant testing date] the aggregate amount of Net Proceeds from Recovery Events during the annual Accounting Period of the Company ending [] was [].
6. We confirm that no Default is outstanding as at [relevant testing date] or, if it is, the details of the Default and the remedial action proposed or being taken are as follows:
[].

Merix Caymans Trading Company Limited

By:

FORM OF MARGIN CERTIFICATE

To: Standard Chartered Bank (Hong Kong) Limited as Facility Agent

From: Merix Caymans Trading Company Limited

Date: []

**USD30,000,000 Credit Agreement
dated [] 2005 (the Agreement)**

1. We refer to the Agreement. This is a Margin Certificate. Terms defined in the Agreement have the same meaning when used in this Margin Certificate.
2. We confirm that as at [relevant testing date] Consolidated Total Borrowings were [] and Consolidated EBITDA was []; therefore, the Leverage Ratio was [] to 1.
3. We confirm that on the basis of the above, the applicable Margin in respect of the Term Loans and the Revolving Credit Loans is [] per cent. per annum.
4. We set out below calculations establishing the figures in paragraph 2 above:
[].
5. We confirm that no Default or Event of Default is outstanding as at [].

FORM OF ACCESSION AGREEMENT

To: Standard Chartered Bank (Hong Kong) Limited as Facility Agent

From: Merix Caymans Trading Company Limited and ADDITIONAL GUARANTOR

Date: []

USD30,000,000 Credit Agreement
dated [] 2005 (the Agreement)

We refer to the Agreement. This is an Accession Agreement. Terms defined in the Agreement have the same meaning when used in this Accession Agreement.

- 1. [Name of company] of [address/registered office] agrees to become:
(a) an Additional Guarantor under the Agreement and to be bound by the terms of the Agreement as an [Additional Guarantor]; and
(b) a Junior Creditor under the Group Subordination Agreement and to be bound by the terms of the Group Subordination Agreement as a Junior Creditor.
2. The Repeating Representations are correct on the date of this Accession Agreement.
3. This Accession Agreement has been executed and delivered as a deed on the date stated at the beginning of this Accession Agreement and is governed by English law.

Executed as a deed by
Merix Caymans Trading Company Limited
acting by

Director

and

Secretary

Executed as a deed by
[PROPOSED [ADDITIONAL BORROWER AND]ADDITIONAL GUARANTOR]

Director

and

Secretary

FORM OF MERIX LETTER OF SUPPORT

To: The Finance Parties as defined in the Agreement (as defined below)

[DATE]

Dear Sirs

Merix Caymans Trading Company Limited - USD30,000,000 Credit Agreement dated 2005 (the Agreement)

1. Interpretation

We refer to the Agreement. Capitalised terms defined in the Agreement have the same meaning when used in this letter unless expressly defined in this letter and the provisions of Clause 1.2 (Construction) of the Agreement apply to this letter as though they were set out in full in this letter, except that reference to the Agreement will be construed as references to this letter.

2. Undertaking

In consideration of the Finance Parties entering into the Agreement, we confirm that, if an Event of Default is outstanding, we will co-operate reasonably with the Finance Parties and Security Agents to facilitate the realisation of any security asset under a Security Document, or the exercise of any right, power or discretion exercisable, by the relevant Security Agent or any of its delegates or sub-delegates in respect of such security assets, including without limitation:

- (a) the execution of transfer or conveyance instruments, documents or agreements;
- (b) the giving of notices or directions; or
- (c) instructing the relevant entity in the Group to take any action referred to in paragraph (a) or (b) above.

3. Governing law

This letter is governed by English law.

Yours faithfully

For:
MERIX CORPORATION

[DATE]

FORM OF SELLER LOAN NOTE INSTRUMENT

SUBORDINATED PROMISSORY NOTE

Merix Caymans Trading Company Limited

[28] September 2005

FOR VALUE RECEIVED, Merix Caymans Trading Company Limited, a company incorporated under the laws of the Cayman Islands with its registered office at Century Yard, Cricket Square, Hutchins Drive, P.O. Box 2681 GT, Grand Cayman, British West Indies (the "Company"), unconditionally and irrevocably promises to pay to the order of Eastern Pacific Circuits Holdings Limited ("Seller") the aggregate of (a) Eleven Million U.S. Dollars (U.S.\$11,000,000) and (b) an amount equal to the EBITDA Earnout Consideration (as defined in the SPA, as defined below) ("Principal"), plus interest on the unpaid balance of the Principal from the date hereof at the rate of (i) 7% per annum from the date of this Note to and inclusive of 1 December, 2006, (ii) thereafter 8% per annum to and inclusive of 1 December 2007, and (iii) thereafter 9% per annum until this Note is fully paid as specified below ("Fixed Interest Rate"). The maturity date of this Note is the later of (a) 15 March 2009; and (b) the date that is ten (10) Business Days after the date on which all Relevant Claims are settled ("Maturity Date").

The Company and the Seller are party to a Seller Subordination Agreement dated on or about the date of this Note with Standard Chartered Bank (Hong Kong) Limited as the security agent under the Credit Agreement (as defined below) ("Seller Subordination Agreement"). The terms of this Note are, where expressly provided for, subject to the terms of the Seller Subordination Agreement.

1. Purchase Agreement

This is the Note referred to in the Master Sale and Purchase Agreement dated 14 April, 2005 as varied by letter agreements dated 28 July, 2005 and 16 September 2005 and further amended by a Supplemental Agreement dated [28] September, 2005 ("SPA") between the Seller and Merix Corporation as the Buyer. Capitalised terms used, but not defined, herein shall have the meaning given to them in the SPA.

2. Subordination to Credit Agreement

(a) The Company is a party to a US\$30,000,000 credit agreement dated on or about the date of this Note between (amongst others) the Company and Standard Chartered Bank (Hong Kong) Limited as the security agent ("Credit Agreement"). "Senior Obligations" means all of the liabilities and payment obligations of the Company and its subsidiaries under the Credit Agreement and, subject to paragraph 2(b), all complete and partial refinancings of such liabilities and payment obligations. Notwithstanding any other provision in this Note, all payments hereunder shall be deferred until all the Senior Obligations (actual or contingent) have been paid and discharged in full unless expressly permitted under Clause 4 (Permitted Payments) of the Seller Subordination Agreement.

(b) If the Senior Obligations are refinanced on an arm's length basis, the parties agree to enter into a subordination agreement with the parties advancing funds for the refinancing on terms similar to those in the Seller Subordination Agreement in respect of and to the extent that the new advances do not exceed the Senior Obligations then outstanding.

3. Payment

(a) Accrued interest shall be payable in arrears on the first business day of each March, June, September and December beginning 1 December 2006 (each a "Quarterly Payment") and on the Maturity Date; provided that if the prevailing rate of interest under the Credit Agreement ("Lender Rate") during the relevant interest period, is less than the Fixed Interest Rate, the interest payment for such period shall be the amount calculated at the Lender Rate and the difference between the accrued interest calculated by reference to the Fixed Interest Rate and the Lender Rate for such period ("Interest Rate Difference") shall be paid on the Maturity Date. Interest shall accrue on the Interest Rate Difference at the Fixed Interest Rate and the amount of such interest shall be paid on the Maturity Date.

(b) Regardless of the date EBITDA Earnout Consideration is determined, it shall be deemed to have been outstanding from the date of this Note for all interest calculation purposes. Once the EBITDA Earnout Consideration is determined, all accrued and unpaid interest thereon, subject to the interest payment limitations in Section 3(a), shall be paid on the first Quarterly Payment after such determination.

(c) Principal shall be paid in four equal installments of 25% of the Principal each on 1 March 2007, 1 December 2007, 1 December 2008 and 15 March 2009 (each a "Principal Payment"). Each Principal Payment shall be made or deemed satisfied as follows: (i) first, by reduction of the amount due by the amount of the Post Cash Working Capital Shortfall determined pursuant to Clause 6.8 of the SPA not previously applied to satisfaction of Principal; (ii) second, by reduction of the amount due by the amount of settled Relevant Claims not previously applied to the satisfaction of Principal; (iii) third, by suspension of the payment obligation by the amount of asserted, but unsettled, Relevant Claims in the manner provided in Section 4 hereof to the extent that such unsettled Relevant Claims have not previously been applied to the suspension of Principal Payments; and (iv) fourth, by payment in immediately available funds.

(d) If the Company fails to make any Quarterly Payment or Principal Payment or pay any part thereof on its due date, interest on the unpaid amount shall accrue on a day to day basis at the relevant Fixed Interest Rate from but excluding the due date to and including the date of actual payment.

(e) All payments shall be applied to accrued interest and thereafter to principal.

(f) All amounts due hereunder are payable in lawful money of the United States of America.

(g) Principal plus accrued interest may be prepaid at any time without penalty by the Company.

(h) Notwithstanding anything to the contrary contained herein or in the SPA, in no event shall any amount payable by the Company as interest or other charges on this Note exceed the highest lawful rate permissible under any law applicable hereto.

4. Relevant Claims

If, in accordance with Schedule 4 of the SPA, the Buyer gives the Seller notice of a Relevant Claim, and such Relevant Claim is not settled or otherwise determined by the date of a Principal Payment, the Principal Payment shall be suspended in the manner described in Section 3(c) by an amount equal to such unsettled Relevant Claim ("Amount Claimed"). Upon the settlement or determination of such Relevant Claim, the Principal Payment shall be deemed satisfied to the extent of the amount settled or otherwise

determined in respect of such Relevant Claim (the “Settled Amount”), and an amount equal to the Amount Claimed less the Settled Amount, if any, shall be paid to the Seller within ten (10) Business Days of the settlement or determination of such Relevant Claim.

5. Acceleration

(a) The amounts payable hereunder may be declared immediately due and payable by the Seller if: (a) the Company fails to make any Quarterly Payment when due and such failure to pay continues for five (5) days, (b) the Company fails to make any Principal Payment when due, or (c) the Company or any of its subsidiaries or the Company’s shareholder raises financing other than the Facility (as defined in the Credit Agreement), which in a single transaction or a series of related transactions delivers proceeds in excess of US\$50,000,000, or (d) the Company shall have made an assignment for the benefit of creditors or shall have admitted in writing its inability to pay its debts as they become due or consented to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of all or of substantially all of its property; or by order of a court of competent jurisdiction a receiver or liquidator or trustee of the Company or any of its property shall have been appointed and shall not have been discharged within 60 days, or by decree of such a court the Company shall have been adjudicated insolvent and such decree shall have continued undischarged and unstayed for 60 days after the entry thereof; or a petition to reorganize the Company, pursuant to any bankruptcy or similar statute applicable to the Company, shall have been filed against the Company and shall not have been dismissed within 60 days after such filing, or the Company shall have been adjudicated a bankrupt, or shall have filed a petition in voluntary bankruptcy under any provision of any bankruptcy law, or shall have consented to the filing of any bankruptcy or reorganization petition against it under any such law, or shall have filed a petition to reorganize the Company pursuant to any applicable law, provided that the foregoing acceleration right may not be exercised in a manner that causes the outstanding Principal at any time to be less than the prevailing liability cap, as determined in accordance with Part 1 of Schedule 9 of the SPA (the “Retained Amount”). Thereafter, on each date on which the liability cap falls in accordance with Part 1 of Schedule 9 of the SPA, and if Seller has exercised the foregoing acceleration right, the Company shall forthwith pay to the Seller the difference between the Retained Amount and the prevailing liability cap.

(b) Notwithstanding any other provision in this Note, the Seller’s rights under paragraph (a) above may only be exercised in accordance with the Seller Subordination Agreement.

6. Amendments to the Credit Agreement

(a) Subject to paragraph (b) below, the Company shall not, without the written consent of the Seller agree to any amendment of any term of the Credit Agreement, except for an amendment which:

- (i) is procedural or administrative in nature; or
- (ii) does not result in the Company being subjected to more onerous obligations than those existing at the date hereof or which would otherwise prejudice the Seller’s rights under this Note.

(b) If:

(i) an Event of Default has been declared (other than in respect of a matter referred to in Clause 20.3(b) (Breach of other obligations) under the Credit Agreement) and is outstanding under the Credit Agreement; or

(ii) an Event of Default has been declared in respect of a matter referred to in Clause 20.3(b) (Breach of other obligations) under the Credit Agreement and the Facility Agent has taken action to accelerate the Senior Obligations in respect of such an Event of Default, the Company may agree to any amendment of any term of the Credit Agreement without the consent of the Seller.

7. No set-off, counterclaim, deduction or withholding

All sums payable under this Note shall be paid in full without set-off or counterclaiming for any reason and without deduction of or withholding for any taxes, duties levies, imposts or charges of any nature other than as contemplated in paragraphs 3(c), 4 and 5 hereof.

8. Waiver

The Company hereby waives demand, protest and notice of demand, protest and nonpayment and consent to any and all renewals and extensions of the time of payment under this Note.

9. Assignability

Neither the Seller nor the Company may assign, transfer, endorse or in any other way alienate any of its rights under this Note whether in whole or in part.

10. Governing Law and Dispute Resolution

This Note is governed by the laws of the Hong Kong Special Administrative Region of the People' s Republic of China. Any dispute arising under this Note shall be resolved in accordance with Clause 29 of the SPA.

MERIX CAYMANS TRADING COMPANY LIMITED

Name:

Title:

STRUCTURE MEMORANDUM

1. BACKGROUND

The purpose of this memorandum is to set out certain details of the Acquisition, including:

- (a) all members of the Group (and all Joint Ventures and minority interests held by any member of the Group);
- (b) descriptions which in all material respects are true, complete and correct of the corporate ownership structure of the Group (including all minority interests in any member of the Group), as it will be immediately after Closing; and
- (c) all loans (of USD100,000 or more) between members of the Group and between any member of the Group and a member of the Merix Group as they will be immediately after Closing.

Terms defined in the credit agreement (**Credit Agreement**) in respect of the Acquisition between, amongst others, Merix Caymans Holding and Standard Chartered Bank (Hong Kong) Limited as agent have the same meaning when used in this memorandum.

2. STRUCTURE OF THE GROUP

The parties believe the existing group structure of the Target Group is shown as Appendix 1 (EPC group structure).

The Acquisition Documents provide:

- (a) for the sale and transfer by Eastern Pacific Circuits (HK) Limited of:
 - (i) its manufacturing assets to Merix Manufacturing (Hong Kong) Ltd.; and
 - (ii) its trading assets to Merix Caymans Trading Company Limited;
- (b) for the sale and transfer by Eastern Pacific Circuits Property Limited of its business to Merix Manufacturing (Hong Kong) Ltd.;
- (c) for the sale and transfer by Eastern Pacific Circuits (Singapore) Pte Ltd of its business to Merix Singapore Sales Pte Ltd.;
- (d) for the sale and transfer by Eastern Pacific Circuits (USA) Corporation of its business to Merix Asia, Inc.;
- (e) for the sale and transfer by Eastern Pacific Circuits (Canada) Limited of its business to Merix Circuits Corp.;
- (f) for the sale and transfer by Eastern Pacific Circuits (UK) Limited of its business to Merix UK Limited;

-
- (g) for the sale to Merix Caymans Trading Company Limited by Eastern Pacific Circuits Limited of all of the issued share capital of Eastern Pacific Circuits Investments (Singapore) Pte Ltd (to be renamed Merix Holding (Singapore) Pte Ltd); and
 - (h) for the sale to Merix Caymans Trading Company Limited by Eastern Pacific Circuits (Cayman) Limited of all of the issued share capital of Eastern Pacific Circuits Investments Limited (to be renamed Merix Holding (Hong Kong) Ltd).

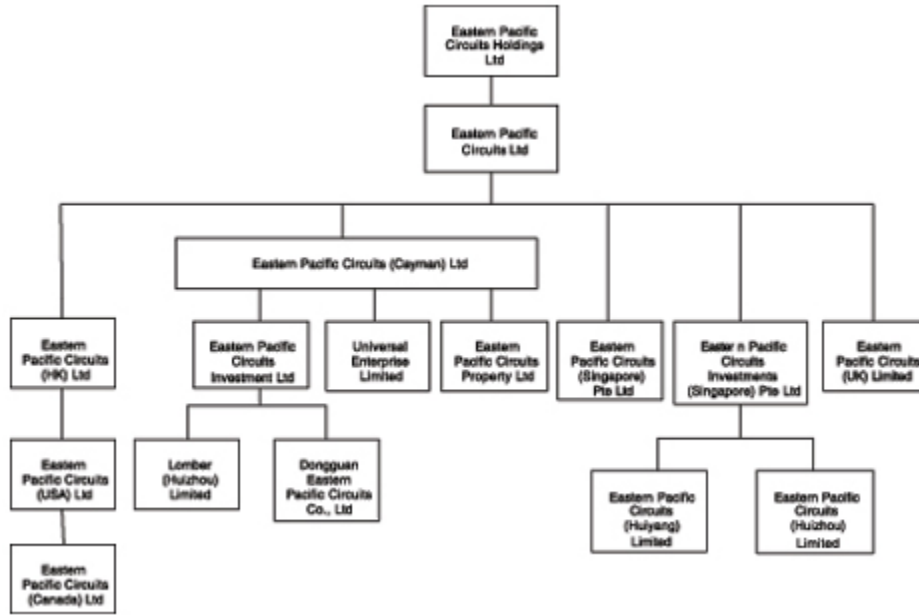
The group structure of the Merix group of companies following the Acquisition is shown as Appendix 2 (Merix group structure).

3. **LOANS**

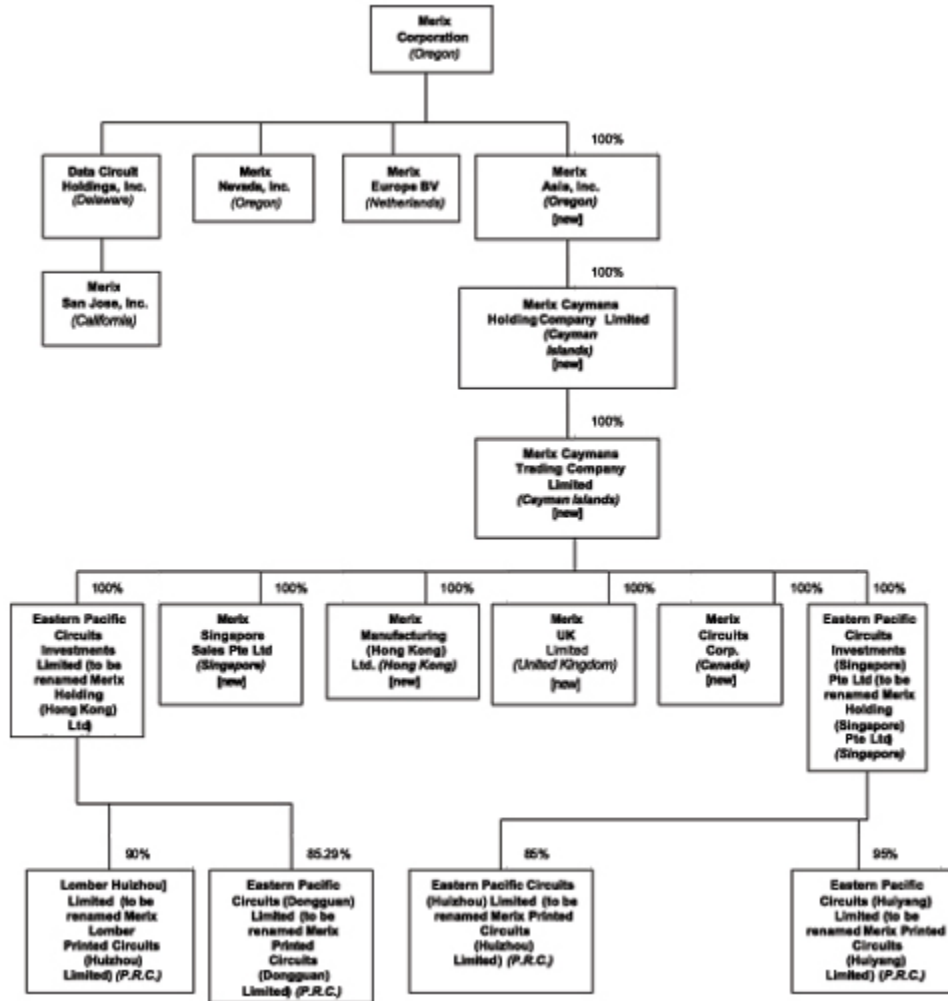
The following lists all loans (of USD100,000 or more) between members of the Group and between any member of the Group and a member of the Merix Group as they will be immediately after Closing:

Merix Corporation will lend Merix Caymans Trading Company Limited at Closing an amount not greater than USD55,000,000.

EPC GROUP STRUCTURE



MERIX GROUP STRUCTURE



SIGNATORIES

Company

MERIX CAYMANS HOLDING COMPANY LIMITED

By: /s/ Mark Hollinger
Name: Mark Hollinger
Title: Director

Borrower

MERIX CAYMANS TRADING COMPANY LIMITED

By: /s/ Mark Hollinger
Name: Mark Hollinger
Title: Director

Original Guarantors

MERIX CAYMANS HOLDING COMPANY LIMITED

By: /s/ Mark Hollinger
Name: Mark Hollinger
Title: Director

MERIX CAYMANS TRADING COMPANY LIMITED

By: /s/ Mark Hollinger
Name: Mark Hollinger
Title: Director

MERIX SINGAPORE SALES PTE. LTD

By: /s/ Mark Hollinger
Name: Mark Hollinger
Title: Director

MERIX MANUFACTURING (HONG KONG) LIMITED

By: /s/ Mark Hollinger
Name: Mark Hollinger
Title: Director

MERIX UK LIMITED

By: /s/ Mark Hollinger
Name: Mark Hollinger
Title: Director

Original Lenders

BANCA NAZIONALE DEL LAVORO S.P.A., HONG KONG BRANCH

By: /s/ Franco Ungaro _____

Name: Franco Ungaro
Title: Authorized Signatory

/s/ Vincent Yip _____

Vincent Yip
Authorized Signatory

CITIC KA WAH BANK LIMITED

By: /s/ Henry Ng _____

Name: Henry Ng
Title: Authorized Signatory

/s/ Jack Wong _____

Jack Wong
Authorized Signatory

COMMEREZBANK ASIA PACIFIC, COMMERZBANK HONG KONG BRANCH

By: /s/ P.A. Kurtz _____

Name: P.A. Kurtz
Title: Authorized Signatory

/s/ Maggie Tan _____

Maggie Tan
Authorized Signatory

DEVELOPMENT BANK OF SINGAPORE LIMITED

By: /s/ Kuik Sam Aik _____

Name: Kuik Sam Aik
Title: Attorney

By: /s/ David Kidd _____
Name: David Kidd
Title: Attorney

JP MORGAN CHASE BANK, N.A.

By: /s/ Anthony John Maher _____
Name: Anthony John Maher
Title: Authorized Signatory

KBC BANK N.V.

By: /s/ Luc Cools _____
Name: Luc Cools
Title: Authorized Signatory

/s/ Andy Fung _____
Andy Fung
Authorized Signatory

LEHMAN BROTHERS COMMERCIAL CORPORATION ASIA LIMITED

By: /s/ Edwin Wong _____
Name: Edwin Wong
Title: Attorney

MALAYAN BANKING BERHAD

By: /s/ Ong Seet Joon _____

Name: Ong Seet Joon

Title: Attorney

RABOBANK INTERNATIONAL HONG KONG BRANCH

By: /s/ Stan Lee _____

Name: Stan Lee

Title: Authorized Signatory

/s/ Eric Poon _____

Eric Poon

Authorized Signatory

STANDARD CHARTERED BANK (HONG KONG) LIMITED

By: /s/ Andrew Hardaere _____

Name: Andrew Hardaere

Title: Attorney

SUMITOMO MITSUI BANKING CORPORATION

By: /s/ Mitsuhiro Akiyama _____

Name: Mitsuhiro Akiyama

Title: Attorney

THE BANK OF NOVA SCOTIA

By: /s/ Chao Wai Khean _____

Name: Chao Wai Khean

Title: Attorney

UFJ BANK LIMITED

By: /s/ Hiraishi, Kenichi _____

Name: Hiraishi, Kenichi

Title: Deputy General Manager Authorized Signatory

UNITED OVERSEAS BANK LIMITED, HONG KONG

By: /s/ Chow Yew Hon _____

Name: Chow Yew Hon

Title: Attorney

Facility Agent

STANDARD CHARTERED BANK (HONG KONG) LIMITED

By: /s/ Jacky Chen _____

Name: Jacky Chen

Title: Loans & Agency Specialises Authorized Signatory

Security Agent

STANDARD CHARTERED BANK (HONG KONG) LIMITED

By: /s/ Jacky Chen _____

Name: Jacky Chen

Title: Loans & Agency Specialises Authorized Signatory

Administrative Agent

STANDARD CHARTERED BANK (HONG KONG) LIMITED

By: /s/ Jacky Chen _____

Name: Jacky Chen

Title: Loans & Agency Specialises Authorized Signatory

SUBORDINATED PROMISSORY NOTE**Merix Caymans Trading Company Limited**

September 29, 2005

FOR VALUE RECEIVED, Merix Caymans Trading Company Limited, a company incorporated under the laws of the Cayman Islands with its registered office at Century Yark, Cricket Square, Hutchins Drive, P.O. Box 2681 GT, Grand Cayman, British West Indies (the “**Company**”), unconditionally and irrevocably promises to pay to the order of Eastern Pacific Circuits Holdings Limited (“**Seller**”) the aggregate of (a) Eleven Million U.S. Dollars (U.S.\$11,000,000) and (b) an amount equal to the EBITDA Earnout Consideration (as defined in the SPA, as defined below) (“**Principal**”), plus interest on the unpaid balance of the Principal from the date hereof at the rate of (i) 7% per annum from the date of this Note to and inclusive of 1 December, 2006, (ii) thereafter 8% per annum to and inclusive of 1 December 2007, and (iii) thereafter 9% per annum until this Note is fully paid as specified below (“**Fixed Interest Rate**”). The maturity date of this Note is the later of (a) 15 March 2009; and (b) the date that is ten (10) Business Days after the date on which all Relevant Claims are settled (“**Maturity Date**”).

The Company and the Seller are party to a Seller Subordination Agreement dated on or about the date of this Note with Standard Chartered Bank (Hong Kong) Limited as the security agent under the Credit Agreement (as defined below) (“**Seller Subordination Agreement**”). The terms of this Note are, where expressly provided for, subject to the terms of the Seller Subordination Agreement.

1. Purchase Agreement

This is the Note referred to in the Master Sale and Purchase Agreement dated 14 April, 2005 as varied by letter agreements dated 28 July, 2005 and 16 September 2005 and further amended by a Supplemental Agreement dated 29 September, 2005 (“SPA”) between the Seller and Merix Corporation as the Buyer. Capitalised terms used, but not defined, herein shall have the meaning given to them in the SPA.

2. Subordination to Credit Agreement

(a) The Company is a party to a US\$30,000,000 credit agreement dated on or about the date of this Note between (amongst others) the Company and Standard

Chartered Bank (Hong Kong) Limited as the security agent (“**Credit Agreement**”). “**Senior Obligations**” means all of the liabilities and payment obligations of the Company and its subsidiaries under the Credit Agreement and, subject to paragraph 2(b), all complete and partial refinancings of such liabilities and payment obligations. Notwithstanding any other provision in this Note, all payments hereunder shall be deferred until all the Senior Obligations (actual or contingent) have been paid and discharged in full unless expressly permitted under Clause 4 (Permitted Payments) of the Seller Subordination Agreement.

(b) If the Senior Obligations are refinanced on an arm’s length basis, the parties agree to enter into a subordination agreement with the parties advancing funds for the refinancing on terms similar to those in the Seller Subordination Agreement in respect of and to the extent that the new advances do not exceed the Senior Obligations then outstanding.

3. Payment

(a) Accrued interest shall be payable in arrears on the first business day of each March, June, September and December beginning 1 December 2006 (each a “Quarterly Payment”) and on the Maturity Date; provided that if the prevailing rate of interest under the Credit Agreement (“**Lender Rate**”) during the relevant interest period, is less than the Fixed Interest Rate, the interest payment for such period shall be the amount calculated at the Lender Rate and the difference between the accrued interest calculated by reference to the Fixed Interest Rate and the Lender Rate for such period (“**Interest Rate Difference**”) shall be paid on the Maturity Date. Interest shall accrue on the Interest Rate Difference at the Fixed Interest Rate and the amount of such interest shall be paid on the Maturity Date.

(b) Regardless of the date EBITDA Earnout Consideration is determined, it shall be deemed to have been outstanding from the date of this Note for all interest calculation purposes. Once the EBITDA Earnout Consideration is determined, all accrued and unpaid interest thereon, subject to the interest payment limitations in Section 3(a), shall be paid on the first Quarterly Payment after such determination.

(c) Principal shall be paid in four equal installments of 25% of the Principal each on 1 March 2007, 1 December 2007, 1 December 2008 and 15 March 2009 (each a “**Principal Payment**”). Each Principal Payment shall be made or deemed satisfied as follows: (i) first, by reduction of the amount due by the amount of the Post-Cash Working Capital Shortfall determined pursuant to Clause 6.8 of the SPA not previously applied to satisfaction of Principal; (ii) second, by reduction of the amount due by the amount of settled Relevant Claims not previously applied to the satisfaction of Principal;

(iii) third, by suspension of the payment obligation by the amount of asserted, but unsettled, Relevant Claims in the manner provided in Section 4 hereof to the extent that such unsettled Relevant Claims have not previously been applied to the suspension of Principal Payments; and (iv) fourth, by payment in immediately available funds.

(d) If the Company fails to make any Quarterly Payment or Principal Payment or pay any part thereof on its due date, interest on the unpaid amount shall accrue on a day to day basis at the relevant Fixed Interest Rate from but excluding the due date to and including the date of actual payment.

(e) All payments shall be applied to accrued interest and thereafter to principal.

(f) All amounts due hereunder are payable in lawful money of the United States of America.

(g) Principal plus accrued interest may be prepaid at any time without penalty by the Company.

(h) Notwithstanding anything to the contrary contained herein or in the SPA, in no event shall any amount payable by the Company as interest or other charges on this Note exceed the highest lawful rate permissible under any law applicable hereto.

4. Relevant Claims

If, in accordance with Schedule 4 of the SPA, the Buyer gives the Seller notice of a Relevant Claim, and such Relevant Claim is not settled or otherwise determined by the date of a Principal Payment, the Principal Payment shall be suspended in the manner described in Section 3(c) by an amount equal to such unsettled Relevant Claim (“Amount Claimed”). Upon the settlement or determination of such Relevant Claim, the Principal Payment shall be deemed satisfied to the extent of the amount settled or otherwise determined in respect of such Relevant Claim (the “Settled Amount”), and an amount equal to the Amount Claimed less the Settled Amount, if any, shall be paid to the Seller within ten (10) Business Days of the settlement or determination of such Relevant Claim.

5. Acceleration

(a) The amounts payable hereunder may be declared immediately due and payable by the Seller if: (a) the Company fails to make any Quarterly Payment when due and such failure to pay continues for five (5) days, (b) the Company fails to make any Principal Payment when due, or (c) the Company or any of its subsidiaries or the

Company' s shareholder raises financing other than the Facility (as defined in the Credit Agreement), which in a single transaction or a series of related transactions delivers proceeds in excess of US\$50,000,000, or (d) the Company shall have made an assignment for the benefit of creditors or shall have admitted in writing its inability to pay its debts as they become due or consented to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of all or of substantially all of its property; or by order of a court of competent jurisdiction a receiver or liquidator or trustee of the Company or any of its property shall have been appointed and shall not have been discharged within 60 days, or by decree of such a court the Company shall have been adjudicated insolvent and such decree shall have continued undischarged and unstayed for 60 days after the entry thereof; or a petition to reorganize the Company, pursuant to any bankruptcy or similar statute applicable to the Company, shall have been filed against the Company and shall not have been dismissed within 60 days after such filing, or the Company shall have been adjudicated a bankrupt, or shall have filed a petition in voluntary bankruptcy under any provision of any bankruptcy law, or shall have consented to the filing of any bankruptcy or reorganization petition against it under any such law, or shall have filed a petition to reorganize the Company pursuant to any applicable law, provided that the foregoing acceleration right may not be exercised in a manner that causes the outstanding Principal at any time to be less than the prevailing liability cap, as determined in accordance with Part 1 of Schedule 9 of the SPA (the “**Retained Amount**”). Thereafter, on each date on which the liability cap falls in accordance with Part 1 of Schedule 9 of the SPA, and if Seller has exercised the foregoing acceleration right, the Company shall forthwith pay to the Seller the difference between the Retained Amount and the prevailing liability cap.

(b) Notwithstanding any other provision in this Note, the Seller' s rights under paragraph (a) above may only be exercised in accordance with the Seller Subordination Agreement.

6. Amendments to the Credit Agreement

(a) Subject to paragraph (b) below, the Company shall not, without the written consent of the Seller agree to any amendment of any term of the Credit Agreement, except for an amendment which:

(i) is procedural or administrative in nature; or

(ii) does not result in the Company being subjected to more onerous obligations than those existing at the date hereof or which would otherwise prejudice the Seller' s rights under this Note.

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- (b) If:
- (i) an Event of Default has been declared (other than in respect of a matter referred to in Clause 20.3(b) (Breach of other obligations) under the Credit Agreement) and is outstanding under the Credit Agreement; or
 - (ii) an Event of Default has been declared in respect of a matter referred to in Clause 20.3(b) (Breach of other obligations) under the Credit Agreement and the Facility Agent has taken action to accelerate the Senior Obligations in respect of such an Event of Default,

the Company may agree to any amendment of any term of the Credit Agreement without the consent of the Seller.

7. No set-off, counterclaim, deduction or withholding

All sums payable under this Note shall be paid in full without set-off or counterclaiming for any reason and without deduction of or withholding for any taxes, duties levies, imposts or charges of any nature other than as contemplated in paragraphs 3(c), 4 and 5 hereof.

8. Waiver

The Company hereby waives demand, protest and notice of demand, protest and nonpayment and consent to any and all renewals and extensions of the time of payment under this Note.

9. Assignability

Neither the Seller nor the Company may assign, transfer, endorse or in any other way alienate any of its rights under this Note whether in whole or in part.

10. Governing Law and Dispute Resolution

This Note is governed by the laws of the Hong Kong Special Administrative Region of the People' s Republic of China. Any dispute arising under this Note shall be resolved in accordance with Clause 29 of the SPA.

**MERIX CAYMANS TRADING COMPANY
LIMITED**

/s/ Mark R. Hollinger

Name:

Mark R. Hollinger

Title:

Chairman

EXECUTIVE SEVERANCE AND NONCOMPETITION AGREEMENT

Stephen Going
16725 SW Blackberry Lane
Beaverton, Oregon 97007

September 21, 2005

Merix Corporation
an Oregon corporation
PO Box 3000
Forest Grove, Oregon 97116

Merix Corporation (“Merix”) considers the establishment and maintenance of a sound and vital management to be essential to protecting and enhancing the best interests of Merix and its shareholders. In this connection, Merix recognizes that, as is the case with many publicly held corporations, the possibility of a change of control may exist and that such possibility, and the uncertainty and questions that it may raise among management, may result in the departure or distraction of management personnel to the detriment of Merix and its shareholders. In order to induce Stephen Going (“Executive”) to remain employed by Merix in the face of uncertainties about the long-term strategies of Merix and possible change of control of Merix and their potential impact on Executive’s position with Merix, this Agreement, which has been approved by the Board of Directors of Merix, sets forth the severance benefits that Merix will provide to Executive in the event Executive’s employment by Merix is terminated under the circumstances described in this Agreement. To induce Merix to enter into this Agreement, Executive agrees to the covenants set forth in Section 6 of this Agreement.

1. Employment Relationship.

Executive is currently employed by Merix as Vice President and General Counsel. Executive and Merix acknowledge that either party may terminate this employment relationship at any time and for any or no reason, subject to the obligation of Merix to provide the severance benefits specified in this Agreement in accordance with the terms hereof.

2. Release of Claims.

In consideration for and as a condition precedent to receiving the severance benefits outlined in this Agreement, Executive agrees to execute and deliver to Merix a Release of Claims in the form attached as Exhibit A (“Release of Claims”) that will be delivered to Executive on the date of Termination of Executive’s Employment (as defined in Section 9.1).

3. Additional Compensation Upon Termination.

In addition to unpaid salary and other wages, if any, payable to Executive through the date of Termination of Executive' s Employment, in the event of a Termination of Executive' s Employment at any time other than for Cause (as defined in Section 9.2 of this Agreement), death or Disability (as defined in Section 9.4 of this Agreement), and contingent upon Executive' s execution of the Release of Claims and compliance with Section 11 of this Agreement, Executive shall be entitled to the following benefits:

3.1 As severance pay and in lieu of any other compensation for periods subsequent to the date of Termination of Executive' s Employment, Merix shall pay Executive, in a single payment after employment has ended and eight days have passed following execution of the Release of Claims without revocation, an amount in cash equal to one year of Executive' s annual base pay at the rate in effect immediately prior to the date of Termination of Executive' s Employment.

3.2 Executive is entitled to extend coverage under any group health plan in which Executive and Executive' s dependents are enrolled at the time of Termination of Executive' s Employment under the COBRA continuation laws for the 18-month statutory period, or for as long as Executive remains eligible under COBRA. Merix will pay Executive a lump sum payment in an amount equivalent to the reasonably estimated cost Executive may incur to extend for a period of 18 months under the COBRA continuation laws Executive' s group health and dental plan coverage in effect at the time of Termination of Executive' s Employment. Executive may use this payment, as well as any payment made under Section 3.1, for such COBRA continuation coverage or for any other purpose.

3.3 Executive shall be entitled to a portion of the benefits under any annual cash incentive plans in effect at the time of Termination of Executive' s Employment equal to the greater of (a) 50 percent of Executive' s target benefit under such plan for the year or (b) a prorated amount representing the portion of the plan year during which Executive was a participant. For purposes of this Agreement, Executive' s participation in any such plan will be considered to have ended on Executive' s last day of active employment. In making the proration calculation, the amount of Executive' s award if Executive had been a participant for the full incentive period shall be divided by the total number of days in the incentive period, and the result multiplied by the actual number of days Executive participated in the plan. The payment amount shall be calculated at the end of the incentive period and the amount shall not be due and payable by Merix to Executive until the date that all awards are payable to other eligible employees after the close of the incentive period, except that Executive may elect at any time after Termination of Executive' s Employment, by written notice to Merix, to receive 50 percent of Executive' s target benefit instead of the prorated amount, in which case the payment shall be made within 20 days of such election. If the applicable plan provides for a greater payment for

a participant whose employment terminates prior to the end of an incentive period, the applicable plan payment shall be made. Executive acknowledges that this Section 3.3 modifies and supersedes any payment provisions under any existing or future bonus plan.

3.4 Merix will pay up to \$12,500 to a third-party outplacement firm selected by Executive to provide career counseling assistance to Executive for a period of one year following the date of Termination of Executive' s Employment. Executive may elect to receive the \$12,500 in cash in lieu of payment to a third-party outplacement firm.

3.5 All outstanding stock options, restricted stock, stock bonuses or other stock awards shall be governed by the terms of the applicable agreement or plan.

4. Additional Compensation Upon Termination Following a Change of Control.

In the event of a Termination of Executive' s Employment other than for Cause, death or Disability within 24 months following a Change of Control (as defined in Section 9.3), or prior to a Change of Control at the direction of a person who has entered into an agreement with Merix, the consummation of which will constitute a Change of Control, and contingent upon Executive' s execution of the Release of Claims and compliance with Sections 5 and 11, Executive shall be entitled to the following benefits, which benefits shall be in addition to the benefits provided in Section 3:

4.1 Merix shall pay Executive, in a single payment within the later of (a) eight days after the last day of employment, including employment during the up-to-six-months-employment period referred to in Section 5 if Merix or the surviving company has requested Executive to continue employment during such period and (b) eight days after execution of the Release of Claims without revocation, an amount in cash equal to one year of Executive' s annual base pay at the rate in effect immediately prior to the date of Termination of Executive' s Employment.

4.2 Executive shall be entitled to receive an amount such that the amount payable pursuant to Section 3.3 plus the amount payable pursuant to this Section 4.2 equals 100 percent of the Executive' s target benefit for the year under annual cash incentive plans in effect at the time of Termination of Executive' s Employment. The amount payable pursuant to Section 4.2 shall be paid on the same date that the Section 4.1 payment is payable.

4.3 Merix shall maintain in full force and effect, at its sole cost and expense, for Executive' s continued benefit for a period terminating 18 months after the date of Termination of Executive' s Employment, a life insurance policy insuring Executive' s life with coverage equal to two times Executive' s annual base pay in effect immediately prior to Termination of Executive' s Employment, provided that Executive' s continued participation is possible under the general terms and provisions of such policy. At

Executive's election, or if Executive's continued participation in such policy is barred, Merix shall make a lump-sum payment to Executive equal to the total premiums that would have been paid by Merix for such 18-month period. The maximum amount that Merix shall be obligated to pay pursuant to this Section 4.3 in premiums and payments to Executive shall be \$5,000.

4.4 The possibility of forfeiture to Merix of all stock issued to Executive under all Executive Stock Bonus Agreements shall immediately lapse.

4.5 All outstanding stock options held by Executive under all stock option and stock incentive plans of Merix shall become immediately exercisable in full and shall remain exercisable until the earlier of (a) two years after Termination of Executive's Employment or (b) the option expiration date as set forth in the applicable option agreement.

4.6 Notwithstanding any provision in this Agreement, in the event that Executive would receive a greater after-tax benefit from the Capped Benefit (as defined in the next sentence) than from the payments pursuant to this Agreement (the "Specified Benefits"), the Capped Benefit shall be paid to Executive and the Specified Benefits shall not be paid. The Capped Benefit is the Specified Benefits, reduced by the amount necessary to prevent any portion of the Specified Benefits from being "parachute payments" as defined in Section 280G(b)(2) of the Internal Revenue Code of 1986, as amended ("IRC"), or any successor provision. For purposes of determining whether Executive would receive a greater after-tax benefit from the Capped Benefit than from the Specified Benefits, there shall be taken into account all payments and benefits Executive will receive upon a Change in Control of Merix (collectively, excluding the Specified Benefits, the "Change of Control Payments"). To determine whether Executive's after-tax benefit from the Capped Benefit would be greater than Executive's after-tax benefit from the Specified Benefits, there shall be subtracted from the sum of the before-tax Specified Benefits and the Change of Control Payments (including the monetary value of any non-cash benefits) any excise tax that would be imposed under IRC § 4999 and all federal, state and local taxes required to be paid by Executive in respect of the receipt of such payments, assuming that such payments would be taxed at the highest marginal rate applicable to individuals in the year in which the Specified Benefits are to be paid or such lower rate as Executive advises Merix in writing is applicable to Executive.

4.7 If Executive's employment with Merix terminates for any reason prior to a Change of Control, other than at the direction of a person who has entered into an agreement with Merix, the consummation of which will constitute a Change of Control, Executive shall not be entitled to benefits under Section 4 of this Agreement.

5. Additional Service.

Executive agrees that, if requested by Merix or the surviving company following a Change of Control, Executive will continue his or her employment with Merix or the surviving company for a period of up to six months following the Change of Control in any capacity requested by Merix or the surviving company consistent with Executive's areas of professional expertise. During this period Executive shall receive the same salary and substantially the same benefits as in effect prior to the Change of Control. Executive shall not be entitled to any benefits provided by Section 4 if Executive fails to perform in accordance with this Section 5.

6. Noncompetition

6.1 Executive acknowledges that as part of Executive's employment with Merix, Executive will have access to confidential information related to Merix's products, services, customers, processes, business strategy and other confidential information that will be inevitably disclosed to a Competing Business if Executive engages in, is employed by, performs services for, participates in the ownership, management, control or operation of, or is otherwise connected with, either directly or indirectly, any Competing Business.

6.2 During the Term, Executive will not, directly or indirectly, engage in, be employed by, perform services for or otherwise participate in any Competing Business (as defined in Section 9.5 of this Agreement) or any other activity which conflicts with the interests of Merix.

6.3 Executive's execution, delivery and performance of this Agreement and the performance of Executive's other obligations and duties to Merix will not cause any breach, default or violation of any other employment, nondisclosure, confidentiality, consulting or other agreement to which Executive is a party or by which Executive may be bound.

6.4 During Executive's employment with Merix and for two years after Termination of Executive's Employment, Executive will not induce, or attempt to induce, any employee or independent contractor of Merix to cease such employment or relationship to engage in, be employed by, perform services for, participate in the ownership, management, control or operation of, or otherwise be connected with, either directly or indirectly, any Competing Business.

6.5 During Executive's employment with Merix and for two years after Termination of Executive's Employment, Executive will not (except on behalf of or with the prior written consent of Merix) directly or indirectly (a) solicit, divert, appropriate to or accept on behalf of any Competing Business, or (b) attempt to solicit, divert, appropriate to or accept on behalf of any Competing Business, any business from any

customer or actively sought prospective customer of Merix with whom Executive has dealt, whose dealings with Merix have been supervised by Executive or about whom Executive has acquired confidential information in the course of Executive's employment.

6.6 During Executive's employment with Merix and for two years after Termination of Executive's Employment, Executive will not engage in, be employed by, perform services for, participate in the ownership, management, control or operation of, or otherwise be connected with, either directly or indirectly, any Competing Business. For purposes of this Section 6, Executive will not be considered to be connected with any Competing Business solely on account of: Executive's ownership of less than five percent of the outstanding capital stock or other equity interests in any person or entity carrying on the Competing Business. Executive agrees that this restriction is reasonable, but further agrees that should a court exercising jurisdiction with respect to this Agreement find any such restriction invalid or unenforceable due to unreasonableness, either in period of time, geographical area, or otherwise, then in that event, such restriction is to be interpreted and enforced to the maximum extent that such court deems reasonable.

6.7 Executive acknowledges that Executive's obligations under this Section 6 are important to Merix, and that Merix would not employ or continue to employ Executive without Executive's agreement to such obligations. Executive also acknowledges that if Executive does not abide by Executive's obligations in this Section 6, Merix will suffer immediate and irreparable harm, and that the damage to Merix will be difficult to measure and financial relief will be incomplete. Accordingly, and notwithstanding Section 12 hereof, Merix will be entitled to injunctive relief and other equitable remedies in an arbitration or in a court of competent jurisdiction in the event of a breach by Executive of any obligation under this Agreement. The rights and remedies of Merix under this Section 6.7 are in addition to all other remedies.

6.8 Executive has carefully read all of the provisions of this Section 6 and agrees that (a) the same are necessary for the reasonable and proper protection of Merix's business, (b) Merix has been induced to enter into its relationship with Executive in reliance upon Executive's compliance with the provisions of this Section 6, (c) every provision of this Section 6 is reasonable with respect to its scope and duration, (d) Executive has executed this Agreement without duress or coercion from any source, and (e) Executive has received a copy of this Agreement.

7. Tax Withholding; Subsequent Employment.

7.1 All payments provided for in this Agreement are subject to applicable tax withholding obligations imposed by federal, state and local laws and regulations.

7.2 The amount of any payment provided for in this Agreement shall not be reduced, offset or subject to recovery by Merix by reason of any compensation earned by Executive as the result of employment by another employer after Termination of Executive's Employment.

8. Other Agreements.

This Agreement replaces and supersedes any severance agreement or other similar agreement between Executive and Merix entered into prior to the date of this Agreement. In the event that severance benefits are payable to Executive under any other agreement with Merix in effect at the time of Termination of Executive's Employment (including but not limited to any employment agreement, but excluding for this purpose any stock option agreement or stock bonus agreement or stock appreciation right agreement that may provide for accelerated vesting or related benefits upon the occurrence of a Change in Control), the benefits provided in this Agreement shall not be payable to Executive. Executive may, however, elect to receive all of the benefits provided for in this Agreement in lieu of all of the benefits provided in all such other agreements. Any such election shall be made with respect to the agreements as a whole, and Executive cannot select some benefits from one agreement and other benefits from this Agreement.

9. Definitions.

9.1 Termination of Executive's Employment.

"Termination of Executive's Employment" means that Merix has terminated Executive's employment with Merix (including any subsidiary of Merix). For purposes of Section 3, if Executive is assigned additional or different titles, tasks or responsibilities from those currently held or assigned, consistent with Executive's areas of professional expertise and with no decrease in annual base compensation, whether at Merix or any subsidiary of Merix, such circumstances shall not constitute a Termination of Executive's Employment. For purposes of Section 4, Termination of Executive's Employment shall include termination by Executive, within 24 months of a Change of Control, by written notice to Merix referring to the applicable paragraph of Section 9.1, for "Good Reason" based on:

(a) the assignment to Executive of a different title, job or responsibilities that results in a decrease in the level of responsibility of Executive with respect to the surviving company after the Change of Control when compared to Executive's level of responsibility for Merix' operations prior to the Change of Control; provided that Good Reason shall not exist if Executive continues to have the same or a greater general level of responsibility for the former Merix operations after the Change of Control as Executive had prior to the Change of Control even if the former Merix operations are a subsidiary or division of the surviving company;

(b) a reduction by Merix or the surviving company in Executive' s annual base pay as in effect immediately prior to the Change of Control;

(c) a significant reduction by Merix or the surviving company in total benefits available to Executive under cash incentive, stock incentive and other employee benefit plans after the Change of Control compared to the total package of such benefits as in effect prior to the Change of Control;

(d) a requirement by Merix or the surviving company that Executive be based more than 50 miles from where Executive' s office is located immediately prior to the Change of Control, except for required travel on company business to an extent substantially consistent with the business travel obligations that Executive undertook on behalf of Merix prior to the Change of Control; or

(e) the failure by Merix to obtain from any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of Merix ("Successor") the assent to this Agreement contemplated by Section 10 hereof.

9.2 Cause.

Termination of Executive' s Employment for "Cause" shall mean termination upon (a) the willful and continued failure by Executive to perform substantially Executive' s reasonably assigned duties with Merix (other than any such failure resulting from Executive' s incapacity due to physical or mental illness) after a demand for substantial performance is delivered to Executive by the Board, the Chief Executive Officer or the President of Merix that specifically identifies the manner in which the Board or Merix believes that Executive has not substantially performed Executive' s duties or (b) the willful engaging by Executive in illegal conduct that is materially and demonstrably injurious to Merix. No act, or failure to act, on Executive' s part shall be considered "willful" unless done, or omitted to be done, by Executive without reasonable belief that Executive' s action or omission was in, or not opposed to, the best interests of Merix. Any act, or failure to act, based upon authority given pursuant to a resolution duly adopted by the Board or based upon the advice of counsel for Merix shall be conclusively presumed to be done, or omitted to be done, by Executive in the best interests of Merix.

9.3 Change of Control.

A Change of Control shall mean that one of the following events has taken place:

(a) The shareholders of Merix approve one of the following ("Approved Transactions"):

(i) Any merger or statutory plan of exchange involving Merix (“Merger”) in which Merix is not the continuing or surviving corporation or pursuant to which shares of Merix’s common stock would be converted into cash, securities or other property, other than a Merger involving Merix in which the holders of shares of Merix’s common stock immediately prior to the Merger have the same proportionate ownership of common stock of the surviving corporation after the Merger; or

(ii) Any sale, lease, exchange, or other transfer (in one transaction or a series of related transactions) of all or substantially all of the assets of Merix or the adoption of any plan or proposal for the liquidation or dissolution;

(b) A tender or exchange offer, other than one made by Merix, is made for shares of Merix’s common stock (or securities convertible into shares of Merix’s common stock), and such offer results in a portion of those securities being purchased and the offeror after the consummation of the offer is the beneficial owner (as determined pursuant to Section 13(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)), directly or indirectly, of securities representing at least 20 percent of the voting power of outstanding securities of Merix;

(c) Merix receives a report on Schedule 13D of the Exchange Act reporting the beneficial ownership by any person of securities representing 20 percent or more of the voting power of outstanding securities of Merix, except that if such receipt shall occur during a tender offer or exchange offer described in (b) above, a Change of Control shall not take place until the conclusion of such offer; or

(d) During any period of 12 months or less, individuals who at the beginning of such period constituted a majority of the Board of Directors cease for any reason to constitute a majority thereof, unless the nomination or election of such new directors was approved by a vote of at least two-thirds of the directors then still in office who were directors at the beginning of such period.

Notwithstanding anything in the foregoing to the contrary, no Change of Control shall be deemed to have occurred for purposes of this Agreement by virtue of any transaction that results in Executive, or a group of persons that includes Executive, acquiring, directly or indirectly, securities representing 20 percent or more of the voting power of outstanding securities of Merix.

9.4 Disability.

Termination of Executive’s Employment based on “Disability” shall mean termination without further compensation under this Agreement, due to a mental or physical impairment of Executive that is expected to result in death or that has lasted or is expected to last for a continuous period of 12 months or more and that causes Executive to be unable, with reasonable accommodation in the opinion of the Committee, to perform his or her duties for Merix and to be engaged in any substantial gainful activity.

9.5 Competing Business

Competing Business means any business whose efforts are in competition with the efforts of Merix. A Competing Business includes any business whose efforts involve any research and development, products or services in competition with products or services which are, during Executive' s employment with Merix and/or upon Termination of Executive' s Employment, either (a) produced, marketed or otherwise commercially exploited by Merix or (b) in actual or demonstrably anticipated research or development by Merix.

10. Successors; Binding Agreement.

10.1 This Agreement shall be binding on and inure to the benefit of Merix and its Successors and assigns. Upon Executive' s written request, Merix will seek to have any Successor, by agreement, assent to the fulfillment by Merix of its obligations under this Agreement. If such a request is made, failure of Merix to obtain such assent prior to or at the time a company becomes a Successor shall constitute Good Reason for termination by Executive of his or her employment and, if a Change of Control of Merix has occurred, shall entitle Executive to the benefits pursuant to Section 4.

10.2 This Agreement shall inure to the benefit of and be enforceable by Executive and Executive' s legal representatives, executors, administrators and heirs.

11. Resignation of Corporate Offices.

Executive will resign Executive' s office, if any, as a director, officer or trustee of Merix, its subsidiaries or affiliates and of any other corporation or trust of which Executive serves as such at the request of Merix, effective as of the date of Termination of Executive' s Employment. Executive agrees to provide Merix such written resignation(s) upon request and that no severance will be paid until after such resignation(s) are provided.

12. Governing Law; Arbitration.

This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon. Any dispute or controversy arising under or in connection with this Agreement, or the breach thereof, shall be settled exclusively by arbitration under the Mutual Agreement to Arbitrate Claims signed by the Executive, and judgment upon the award rendered by the Arbitrator may be entered in any Court having jurisdiction thereof. Notwithstanding any provision in the Mutual Agreement to Arbitrate Claims, Merix shall pay all arbitration fees and reasonable attorney' s fees and expenses (including at trial and

on appeal) of Executive in enforcing its rights under this Agreement in the event of a Termination of Executive' s Employment within 24 months following a Change of Control. Notwithstanding the foregoing, any dispute or controversy arising under or in connection with Section 6 of this Agreement or a breach thereof shall be settled in accordance with the terms of Section 6.7 of this Agreement.

13. Amendment.

No provision of this Agreement may be modified unless such modification is agreed to in writing signed by Executive and Merix.

14. Severability.

If any of the provisions or terms of this Agreement shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other terms of this Agreement, and such provision shall be interpreted, construed or reformed to the extent reasonably required to render the same valid, enforceable and consistent with the original intent underlying such provision of this Agreement.

MERIX CORPORATION

/s/ Mark R. Hollinger

Name Mark R. Hollinger

Title: Chairman, Chief Executive Officer and President

/s/ Stephen M. Going

Stephen M. Going

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INDEMNITY AGREEMENT

This Agreement is made as of September 21, 2005, by and between Merix Corporation, an Oregon corporation (the "Corporation"), and Stephen M. Going ("Indemnitee"), a director and/or officer of the Corporation.

WHEREAS, it is essential to the Corporation to retain and attract as directors and officers of the Corporation and its subsidiaries the most capable persons available; and

WHEREAS, corporate litigation subjects directors and officers to expensive litigation risks at the same time that adequate coverage of directors' and officers' liability insurance may be unavailable; and

WHEREAS, the Articles of Incorporation of the Corporation require indemnification of the officers and directors of the Corporation to the fullest extent permitted by law. The Articles and the Oregon Business Corporation Act (the "Act") expressly provide that the indemnification provisions set forth in the Act are not exclusive, and thereby contemplate that contracts may be entered into between the Corporation and members of the Board of Directors and officers with respect to indemnification of directors and officers; and

WHEREAS, Indemnitee does not regard the protection available under the Corporation's Articles of Incorporation, Bylaws and insurance adequate in the present circumstances, and may not be willing to serve as a director or officer without adequate protection, and the Corporation desires Indemnitee to serve in such capacity.

NOW THEREFORE, the Corporation and Indemnitee agree as follows:

1. **Agreement to Serve.** Indemnitee agrees to serve or continue to serve as a director and/or officer of the Corporation and/or one or more of its subsidiaries for so long as Indemnitee is duly elected or appointed or until such time as Indemnitee tenders a resignation in writing.
2. **Definitions.** As used in this Agreement:
 - (a) The term "Proceeding" shall include any threatened, pending or completed action, suit or proceeding, whether brought in the right of the Corporation or otherwise, whether of a civil, criminal, administrative or investigative nature, and whether formal or informal, in which Indemnitee may be or may have been involved as a party or otherwise, by reason of the fact that Indemnitee is or was a director and/or officer of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, whether or not serving in such capacity at the time any liability or expense is incurred for which indemnification or reimbursement can be provided under this Agreement.
 - (b) The term "Expenses" includes, without limitation thereto, expense of investigations, judicial or administrative proceedings or appeals, amounts paid in settlement by

Indemnitee, attorneys' fees and disbursements and any expenses of establishing a right to indemnification under Section 7 of this Agreement, but shall not include the amount of judgments or fines against Indemnitee.

- (c) References to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise tax assessed with respect to any employee benefit plan; references to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner reasonably believed to be in the interest of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Agreement.

3. **Indemnity in Third Party Proceedings.** The Corporation shall indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is a party to or threatened to be made a party to any Proceeding (other than a Proceeding by or in the right of the Corporation to procure a judgment in its favor) against all Expenses, judgments and fines actually and reasonably incurred by Indemnitee in connection with such Proceeding, but only if Indemnitee acted in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Corporation and, in the case of a criminal proceeding, in addition, had no reasonable cause to believe that Indemnitee's conduct was unlawful. The termination of any such Proceeding by judgment, order of court, settlement, conviction or upon a plea of nolo contendere, or its equivalent, shall not, of itself, create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in the best interest of the Corporation, and with respect to any criminal proceeding, that such person had reasonable cause to believe that Indemnitee's conduct was unlawful.

Pursuant to this Agreement, the Corporation specifically will, and hereby does, indemnify, to the fullest extent permitted by law, Indemnitee against any and all losses, claims, damages, liabilities and expenses, joint or several, (or actions or proceedings, whether commenced or threatened, in respect thereof) to which Indemnitee may become subject, as a result of serving as a director and/or officer of Merix, under the Securities Act or any other statute or common law, including any amount paid in settlement of any litigation, commenced or threatened, and to reimburse them for any legal or other expenses incurred by them in connection with investigating any claims and defending any actions, insofar as any such losses, claims, damages, liabilities, expenses or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact regarding Merix, or the omission or alleged omission to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

4. **Indemnity in Proceedings by or in the Right of the Corporation.** The Corporation shall indemnify Indemnitee in accordance with the provisions of this Section 4 if

Indemnitee is a party to or threatened to be made a party to any Proceeding by or in the right of the Corporation to procure a judgment in its favor against all Expenses actually and reasonably incurred by Indemnitee in connection with the defense or settlement of such Proceeding, but only if Indemnitee acted in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Corporation, except that no indemnification for Expenses shall be made under this Section 4 in respect of any claim, issue or matter as to which such person shall have been finally adjudged by a court to be liable for negligence or misconduct in the performance of Indemnitee's duty to the Corporation, unless and only to the extent that any court in which such Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, Indemnitee is fairly and reasonably entitled to indemnity.

5. **Indemnification of Expenses of Successful Party.** Notwithstanding any other provisions of this Agreement, to the extent that Indemnitee has been successful on the merits or otherwise, in defense of any Proceeding or in defense of any claim, issue or matter therein, including the dismissal of an action without prejudice, Indemnitee shall be indemnified against all Expenses incurred in connection therewith.
6. **Advances of Expenses.** The Expenses incurred by Indemnitee pursuant to Sections 3, 4 and 8 in any Proceeding shall be paid by the Corporation in advance at the written request of Indemnitee, if Indemnitee shall undertake to repay such amount to the extent that it is ultimately determined by a court that Indemnitee is not entitled to be indemnified by the Corporation and shall furnish the Corporation a written affirmation of the Indemnitee's good faith belief that Indemnitee is entitled to be indemnified by the Corporation under this Agreement. Such advances shall be made without regard to Indemnitee's ability to repay such expenses.
7. **Right of Indemnitee to Indemnification Upon Application; Procedure Upon Application.** Any indemnification or advances under Sections 3, 4, 6 or 8 shall be made no later than 45 days after receipt of the written request of Indemnitee, unless a determination is made within such 45 day period by (a) the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such proceeding, or (b) independent legal counsel in a written opinion (which counsel shall be appointed if such quorum is not obtainable), that the Indemnitee has not met the relevant standards for indemnification set forth in Section 3, 4 or 8 or an exclusion set forth in Section 9 is applicable.

The right to indemnification or advances as provided by this Agreement shall be enforceable by Indemnitee in any court of competent jurisdiction. The burden of proving that indemnification or advances are not appropriate shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors or independent legal counsel) to have made a determination prior to the commencement of such action that indemnification or advances are proper in the circumstances because Indemnitee has met the applicable standard of conduct nor an actual determination by the Corporation (including its Board of Directors or

independent legal counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct. Indemnitee's expenses incurred in connection with successfully establishing Indemnitee's right to indemnification or advances, in whole or in part, in any such Proceeding shall also be indemnified by the Corporation.

8. Additional Indemnification.

- (a) Notwithstanding any limitation in Sections 3 or 4, the Corporation shall indemnify Indemnitee in accordance with the provisions of this Section 8(a) to the fullest extent permitted by law if Indemnitee is party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Corporation to procure a judgment in its favor) involving a claim against Indemnitee for breach of fiduciary duty by Indemnitee against all Expenses, judgments and fines actually and reasonably incurred by Indemnitee in connection with such Proceeding, provided that no indemnity shall be made under this Section 8(a) on account of Indemnitee's conduct which constitutes a breach of Indemnitee's duty of loyalty to the Corporation or its stockholders or is an act or omission not in good faith or which involves intentional misconduct or a knowing violation of the law or with respect to an unlawful distribution under ORS 60.367.
- (b) Notwithstanding any limitation in Sections 3, 4 or 8(a), the Corporation shall indemnify Indemnitee if Indemnitee is a party to or threatened to be made a party to any Proceeding (including a Proceeding by or in the right of the Corporation to procure a judgment in its favor) against all Expenses, judgments and fines actually and reasonably incurred by Indemnitee in connection with such Proceeding to the fullest extent permitted by the Act, including the nonexclusivity provision of ORS 60.414(1) and any successor provision and including any amendments to the Act adopted after the date hereof that may increase the extent to which a corporation may indemnify its officers and directors.
- (c) The indemnification provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may be entitled under the Restated Articles of Incorporation, the Bylaws, any other agreement, any vote of shareholders or directors, the Act, or otherwise, both as to action in Indemnitee's official capacity or as to action in another capacity while holding such office. The indemnification under this Agreement shall continue as to Indemnitee even though Indemnitee may have ceased to be a director or officer and shall inure to the benefit of the heirs and personal representatives of Indemnitee.

9. Exclusions. Notwithstanding any provision in this Agreement, the Corporation shall not be obligated under this Agreement to make any indemnification or advances in connection with any claim made against Indemnitee:

- (a) for which payment is required to be made to or on behalf of Indemnitee under any insurance policy, except with respect to any excess beyond the amount of required

payment under such insurance, unless payment under such insurance policy is not made after reasonable effort by Indemnitee to obtain payment. The Corporation shall be subrogated with respect to any other rights of Indemnitee with respect to any payment made by the Corporation to or on behalf of the Corporation under this Agreement;

- (b) for any transaction from which Indemnitee derived an improper personal benefit; or
 - (c) for an accounting of profits made from the purchase and sale by Indemnitee of securities of the Corporation within the meaning of Section 16(b) of the Securities Exchange Act of 1934 and amendments thereto or similar provisions of any state statutory law or common law.
- 10. Partial Indemnification.** If Indemnitee is entitled under any provisions of this Agreement to indemnification by the Corporation for some or a portion of the Expenses, judgments and fines actually and reasonably incurred by Indemnitee in the investigation, defense, appeal or settlement of any Proceeding but not, however, for the total amount thereof, the Corporation shall nevertheless indemnify Indemnitee for the portion of such Expenses, judgments or fines to which Indemnitee is entitled.
- 11. Business Transactions.** The Corporation agrees that it will not effect any Business Transaction (as defined in Article XI of the Restated Articles of Incorporation of the Corporation) which has not been approved by the Continuing Directors (as defined in Article XI of the Restated Articles of Incorporation of the Corporation) of the Corporation unless the other party to the transaction agrees in writing to (a) use its best efforts to maintain for the subsequent two year period any and all directors' and officers' liability insurance in effect prior to any discussions or announcement relating to such Business Transaction and (b) assume all obligations of the Corporation under this Agreement and indemnify Indemnitee and advance litigation expenses in accordance with this Agreement.
- 12. Severability.** If this Agreement or any portion thereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify Indemnitee as to Expenses, judgments and fines with respect to any Proceeding to the full extent permitted by any applicable portion of this Agreement that shall not have been invalidated or by any other applicable law.
- 13. Notice.** Indemnitee shall, as a condition precedent to Indemnitee's right to be indemnified under this Agreement, give to the Corporation notice in writing as soon as practicable of any claim made against Indemnitee for which indemnity will or could be sought under this Agreement. Notice to the Corporation shall be directed to Merix Corporation, 1521 Poplar Lane, Forest Grove, Oregon 97116, Attention: Secretary (or such other address as the Corporation shall designate in writing to Indemnitee). Notice shall be deemed received three days after the date postmarked if sent by prepaid mail, properly addressed. In addition, Indemnitee shall give the Corporation such information and cooperation as it may reasonably require and as shall be within Indemnitee's power.

14. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute the original.

15. Applicable Law. This Agreement shall be governed by and construed in accordance with Oregon law.

16. Successors and Assigns. This Agreement shall be binding upon the Corporation and its successors and assigns.

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

MERIX CORPORATION

By:

/s/ Mark R. Hollinger

Mark R. Hollinger

Chairman, Chief Executive Officer and President

INDEMNITEE

/s/ Stephen M. Going

Stephen M. Going

EMPLOYEE STOCK BONUS AGREEMENT

Employee

Merix Corporation
an Oregon corporation
PO Box 3000
Forest Grove, OR 97116

Merix

Employee is employed by Merix or a subsidiary. Merix has adopted the 1994 Incentive Plan, as amended (the "1994 Plan") and the 2000 Nonqualified Stock Option Plan, as amended (the "2000 Plan") in order to attract and retain as employees, people of initiative and ability. Each of the 1994 Plan and 2000 Plan is referred to as a "Plan". Under each Plan, a committee of the Board of Directors of Merix (the "Committee") may award shares of the Common Stock of Merix as stock bonuses (the "Common Stock") subject to terms, conditions and restrictions determined by the Committee.

The Committee considers it in the best interests of Merix to award Employee a stock bonus to enhance the ability of Merix and its subsidiaries to attract and retain Employee's services and to provide an additional incentive for Employee to exert his efforts on behalf of Merix and its subsidiaries.

1. Award of Bonus Shares

Pursuant to the 2000 Plan, and, to the extent not inconsistent with this Agreement, subject to the terms and conditions of the 2000 Plan, Merix hereby awards to Employee _____ fully paid and nonassessable shares of Common Stock as a stock bonus (the "Bonus Shares"). The effective date of this award is _____ (the "Effective Date"). The Bonus Shares are subject to the length of service restrictions set forth in Section 2 below. The Bonus Shares are also subject to the performance accelerations and to the special acceleration provisions set forth in Sections 6 and 7.

2. Length of Service and Transfer Restrictions

2.1 Length of Service Restriction

[_____]

2.2 Transfer Restriction

No interest in any Bonus Shares may be transferred by Employee voluntarily or by operation of law until the possibility of forfeiture lapses. The registered owner to whom a certificate is delivered pursuant to this section shall be Employee, unless Employee is not living, in which case the owner shall be the person or persons establishing rights of ownership by will or under the laws of descent and distribution.

3. Share Certificates and Dividends

3.1 Certificates

Bonus Shares shall be issued in the name of the Employee as soon as practicable after the Effective Date via Book Entry made by Merix' designated stock transfer agent. The stock transfer agent will hold Bonus Shares in Book Entry form until the possibility of forfeiture under Section 2 has lapsed. Certificates for Bonus Shares shall then be issued in the name of the Employee and delivered to the registered owner as soon as practicable. If forfeiture occurs, the Book Entry covering the forfeited shares shall be promptly canceled by Merix via written instruction to the transfer agent without additional authorization from the Employee. While the transfer agent holds the shares in Book Entry form, Employee may exercise voting and other shareholder rights.

3.2 Dividends

Merix shall retain cash or stock dividends declared on the Bonus Shares, if any, for the account of Employee. Cash dividends paid with respect to Bonus Shares will be paid to Employee in a lump sum upon the lapse of the possibility of forfeiture with respect thereto under Section 2, subject to the withholding requirement of Section 4. Stock received upon payment of stock dividends shall be issued via Book Entry made by Merix' designated stock transfer agent, and will be held in Book Entry form until the possibility of forfeiture with respect to the relevant Bonus Shares under Section 2 has lapsed. Employee shall have no right to receive retained cash or stock dividends with respect to Bonus Shares that are forfeited.

4. Withholding Taxes

Employee will be responsible for payment of all withholding taxes relating to the Bonus Shares. If at any time Merix or any of its subsidiaries is required to withhold tax on account of any Bonus Shares, Merix or its subsidiary will require Employee to pay such withholding to Merix or its subsidiary in cash upon demand. Merix shall have a security interest in the Bonus Shares to secure Employee' s obligation to pay withholding taxes.

5. Stock Splits and Dividends

If, during the period when any of the Bonus Shares are subject to the possibility of forfeiture, the number of outstanding Merix Common Stock is increased as a result of a stock dividend or stock split, the restrictions and other provisions of this Agreement shall apply to any such additional shares which are issued in respect of any Bonus Shares to the same extent as such restrictions and other provisions apply to such Bonus Shares.

6. Performance Accelerations

Notwithstanding any other provision of this Agreement,

(a) [_____]

(b) [_____]

7. Special Acceleration

7.1 Special Acceleration

[_____]

7.3 Termination Following an Accelerating Event

[_____]

8. Consideration

Merix acknowledges Employee' s payment of full consideration for the Bonus Shares in the form of services previously rendered (in an amount equal to no less than the aggregate par value of the Bonus Shares) and services to be rendered hereafter to Merix.

9. Securities Law Compliance

Notwithstanding any other provision of this Agreement, Employee may not sell the Bonus Shares unless they are registered under the Securities Act of 1933, as amended (the "Securities Act"), or, if such Bonus Shares are not then so registered, Merix has determined that such sale would be exempt from the registration requirements of the Securities Act. The sale of the Bonus Shares must also comply with other applicable laws and regulations governing the Bonus Shares, and Employee may not sell the Bonus Shares if Merix determines that such sale would not be in material compliance with such laws and regulations.

10. Stop-Transfer Notices

Employee understands and agrees that, in order to ensure compliance with the restrictions referred to in this Agreement, Merix may issue appropriate "stop-transfer" instructions to its transfer agent, if any, and that, if Merix transfers its own securities, it may make appropriate

notations to the same effect in its own records. Merix will not be required to (a) transfer on its books any Bonus Shares that have been sold or transferred in violation of the provisions of this Agreement or (b) treat as the owner of the Bonus Shares, or otherwise accord voting, dividend or liquidation rights to, any transferee to whom the Bonus Shares have been transferred in contravention of this Agreement.

11. Section 83(b) Election for Bonus Shares

Employee understands that under Section 83(a) of the Code, the excess of the Fair Market Value of the Bonus Shares on the date the forfeiture restrictions lapse over the purchase price, if any, paid for such Bonus Shares will be taxed, on the date such forfeiture restrictions lapse, as ordinary income subject to payroll and withholding tax and tax reporting, as applicable. For this purpose, the term “forfeiture restrictions” means the right of Merix to receive back any Bonus Shares upon termination of Employee’s employment with Merix or any subsidiary of Merix. Employee understands that Employee may elect under Section 83(b) of the Code to be taxed at the time the Bonus Shares are acquired, rather than when and as the Bonus Shares cease to be subject to the forfeiture restrictions. Such election (an “83(b) Election”) must be filed with the Internal Revenue Service **within 30 days** from the Effective Date of the award of Bonus Shares as set forth in paragraph 1 above.

Employee understands that (a) Employee will not be entitled to a deduction for any ordinary income previously recognized as a result of the 83(b) Election if the Bonus Shares are subsequently forfeited to Merix and (b) the 83(b) Election may cause Employee to recognize more ordinary income than Employee would have otherwise recognized if the value of the Bonus Shares subsequently declines.

THE FORM FOR MAKING AN 83(b) ELECTION IS ATTACHED TO THIS AGREEMENT AS EXHIBIT B. EMPLOYEE UNDERSTANDS THAT FAILURE TO FILE SUCH AN ELECTION WITHIN THE 30-DAY PERIOD MAY RESULT IN THE RECOGNITION OF ORDINARY INCOME BY EMPLOYEE AS THE FORFEITURE RESTRICTIONS LAPSE. Employee further understands that an additional copy of such election form should be filed with Employee’s federal income tax return for the calendar year in which the date of this Agreement falls. Employee acknowledges that the foregoing is only a summary of the federal income tax laws that apply to the purchase of the Bonus Shares under this Agreement and does not purport to be complete. **EMPLOYEE FURTHER ACKNOWLEDGES THAT MERIX HAS DIRECTED EMPLOYEE TO SEEK INDEPENDENT ADVICE REGARDING THE APPLICABLE PROVISIONS OF THE CODE AND THE INCOME TAX LAWS OF ANY MUNICIPALITY OR STATE IN WHICH EMPLOYEE MAY RESIDE.**

Employee agrees to execute and deliver to Merix with this Agreement a copy of the Acknowledgment and Statement of Decision Regarding Section 83(b) Election (the “Acknowledgment”) attached hereto as Exhibit A. Employee further agrees that Employee will execute and deliver to Merix with this Agreement a copy of the 83(b) Election attached hereto as Exhibit B if Employee chooses to make such an election.

12. Independent Tax Advice

Employee acknowledges that determining the actual tax consequences to Employee of receiving or disposing of the Bonus Shares may be complicated. These tax consequences will depend, in part, on Employee's specific situation and may also depend on the resolution of currently uncertain tax law and other variables not within the control of Merix. Employee is aware that Employee should consult a competent and independent tax advisor for a full understanding of the specific tax consequences to Employee of receiving or disposing of the Bonus Shares. Prior to executing this Agreement, Employee either has consulted with a competent tax advisor independent of Merix or any subsidiary of Merix to obtain tax advice concerning the Bonus Shares in light of Employee's specific situation or has had the opportunity to consult with such a tax advisor but chose not to do so.

13. General Provisions

13.1 Assignment. Merix may assign its rights under this Agreement at any time, whether or not such rights are then exercisable, to any person or entity selected by Merix' Board of Directors, including, without limitation, one or more stockholders of Merix.

13.2 Notices. Any notice required in connection with this Agreement will be given in writing and will be deemed effective upon personal delivery or upon deposit in the U.S. mail, registered or certified, postage prepaid and addressed to the party entitled to such notice by 10 days' advance written notice under this Section 12.2 to all other parties to this Agreement.

13.3 No Waiver. No waiver of any provision of this Agreement will be valid unless in writing and signed by the person against whom such waiver is sought to be enforced, nor will failure to enforce any right hereunder constitute a continuing waiver of the same or a waiver of any other right hereunder.

13.4 Undertaking. Employee hereby agree to take whatever additional action and execute whatever additional documents Merix may deem necessary or advisable in order to carry out or effect one or more of the obligations or restrictions imposed on either Employee or the Bonus Shares pursuant to the express provisions of this Agreement.

13.5 Agreement Is Entire Contract. This Agreement constitutes the entire contract between the parties hereto with regard to the subject matter hereof.

13.6 Successors and Assigns. The provisions of this Agreement will inure to the benefit of, and be binding on, Merix and its successors and assigns and Employee and Employee's legal representatives, heirs, legatees, distributees, assigns and transferees by operation of law, whether or not any such person will have become a party to this Agreement and agreed in writing to join herein and be bound by the terms and conditions hereof.

13.7 No Employment or Service Contract. This Agreement does not confer upon Employee any right with respect to continuance of employment by Merix or any Parent or Subsidiary, nor does it interfere in any way with the right of Employee's employer to terminate Employee's employment or services at any time.

13.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but which, upon execution, will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year indicated above on the first page of this Agreement as the Effective Date.

COMPANY

By: _____
Chairman, Chief Executive Officer and President

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**SUMMARY OF KEY TERMS OF COMPENSATION ARRANGEMENTS WITH MERIX
CORPORATION EXECUTIVE OFFICERS**

Merix' executive officers each receive an annual salary. The executive officers are also eligible for a cash incentive under the Merix' Executive Incentive Plan ("EIP") and for equity incentives under our 1994 Stock Incentive Plan. Awards under the EIP are determined as percentages of base salary. Merix' executives participate in Merix' 401(k) plan and other employee benefits plans on the same basis as other employees. Merix makes annual matching contributions to Merix' 401(k) Plan and pays Group Term Life Insurance premiums for each of its executive officers on the same basis as for all regular employees of Merix who satisfy minimum eligibility requirements. In addition, Merix' executive officers are eligible to participate in Merix' health and welfare and other employee benefit plans that are available on the same basis to all regular employees of Merix who satisfy minimum eligibility requirements.

Key elements of executive compensation for fiscal year ending May 27, 2006 are:

Name and Title	Fiscal 2006 Salary	2006 EIP Maximum Cash Incentive	2006 Target Bonus Allocation							
			North American Operations Operating Income		China Operations EBITDA		North American Quick Turn Revenue		San Jose Operations EBITDA	
Mark R. Hollinger President and Chief Executive Officer	\$330,000	70 %	40 %	60 %						
Janie S. Brown Senior Vice President, Chief Financial Officer and Treasurer	\$195,000	50 %	40 %	50 %	10 %					
Daniel T. Olson Senior Vice President and Chief Executive Officer of Asian Operations	\$230,000	70 %	40 %	60 %						
Steve Robinson Vice President, Merix North American Operations and President, Merix San Jose, Inc.	\$275,000	100 %	40 %		30 %			30 %		
Thomas R. Ingham (a) Vice President, Sales and Marketing	\$210,000	60 % ^(a)								

(a) Included in the percentage of 2006 EIP Maximum Cash Incentive to be awarded to Mr. Ingham is a \$45,000 guaranteed amount payable in quarterly installments of \$11,250.

(b) The distribution of the 2006 Target Bonus Allocation for Mr. Ingham has not yet been determined.

CERTIFICATION**Chief Executive Officer**

I, Mark R. Hollinger, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Merix Corporation for the quarter ended August 27, 2005;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the registrant and have:
 - a) Designed such disclosure controls and procedures or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this 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 that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 11, 2005

By: /s/ Mark R. Hollinger _____

Title: Chief Executive Officer

CERTIFICATION**Chief Financial Officer**

I, Janie S. Brown, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Merix Corporation for the quarter ended August 27, 2005;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the registrant and have:
 - a) Designed such disclosure controls and procedures or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this 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 that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: October 11, 2005

By: /s/ Janie S. Brown

Title: Chief Financial Officer

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

In connection with the Quarterly Report of Merix Corporation (the "Company") on Form 10-Q for the quarter ended August 27, 2005 as filed with the Securities and Exchange Commission on the date hereof (the "Form 10-Q"), I, Mark R. Hollinger, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Form 10-Q fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
2. The information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated October 11, 2005

/s/ Mark R. Hollinger _____

Mark R. Hollinger
Chief Executive Officer

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

In connection with the Quarterly Report of Merix Corporation (the "Company") on Form 10-Q for the quarter ended August 27, 2005 as filed with the Securities and Exchange Commission on the date hereof (the "Form 10-Q"), I, Janie S. Brown, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Form 10-Q fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934(15 U.S.C. 78m or 78o(d)); and
2. The information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated October 11, 2005

/s/ Janie S. Brown

Janie S. Brown

Chief Financial Officer