

ELECTRO SCIENTIFIC INDUSTRIES INC

FORM 8-K (Current report filing)

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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): January 31, 2017

ELECTRO SCIENTIFIC INDUSTRIES, INC.

(Exact name of registrant as specified in its charter)

OREGON

**(State or other jurisdiction
of incorporation)**

0-12853

**(Commission
File Number)**

93-0370304

**(IRS Employer
Identification No.)**

13900 NW Science Park Drive, Portland, Oregon

(Address of principal executive offices)

97229

(Zip Code)

Registrant's telephone number, including area code: (503) 641-4141

No Change

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

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01 Entry into a Material Definitive Agreement

On January 31, 2017, Electro Scientific Industries, Inc. (the “Company”) amended and restated its existing Loan and Security Agreement (the “Prior Loan Agreement”) with Silicon Valley Bank (the “Lender”) pursuant to an Amended and Restated Loan and Security Agreement (the “Restated Loan Agreement”).

The Restated Loan Agreement amends and restates the Prior Loan Agreement to, among other things, make the changes summarized below. Capitalized terms not defined herein have the meanings ascribed to them in the Restated Loan Agreement.

- The maturity date of the revolving line of credit and letter of credit sublimit available to the Company has been extended by one year, to March 20, 2019.
 - The dollar thresholds of Cash and Excess Availability triggering (i) the Non-Formula Period are now \$40 million (up from \$30 million under the Prior Loan Agreement); (ii) the Streamline Period are now between \$30 million and \$40 million (previously less than \$30 million); and (iii) the Off-Streamline Period are now \$30 million (not relevant under Prior Loan Agreement).
 - The following changes were made to financial covenants:
 - The Company is not permitted to contract for, purchase or make Capital Expenditures in excess of \$8 million in any fiscal year, down from \$10 million under the Prior Loan Agreement;
 - The covenant requiring a minimum amount of Adjusted EBITDA for each trailing twelve-month period now requires the Company to maintain Adjusted EBITDA for each trailing twelve-month period according to a specified monthly schedule (See Section 6.9(c) of the Restated Loan Agreement, which is filed as Exhibit 10.1 to this Current Report on Form 8-K). Under the new agreement the amount of Adjusted EBITDA loss permitted is increased from the prior agreement through March 2018. During the extension period, the level of Adjusted EBITDA loss declines on a roughly pro-rated basis over the remaining period of the credit line. Under the Prior Loan Agreement, Adjusted EBITDA losses for the trailing twelve-month period could not exceed (i) for the first month and second month of each calendar quarter, \$14 million and (ii) for the third month of each calendar quarter, \$10 million; and
 - The definition of Adjusted EBITDA now includes, as an addition to Net Income, one-time, cash charges in an aggregate amount not to exceed \$5 million for restructuring costs incurred on or after the Effective Date but prior to the end of borrowers fiscal year ending March 31, 2018.
 - The Unused Revolving Line Facility Fee is now an amount equal to (i) during any Non-Formula Period or any Non-Borrowing Period, three tenths of one percent (0.30%) per annum; (ii) during any Streamline Period that is not a Non-Borrowing Period, four tenths of one percent (0.40%) per annum; and (iii) during any Off-Streamline Period that is not a Non-Borrowing Period, one half of one percent (0.50%) per annum, in each case, of the average unused portion of the Revolving Line. Under the Prior Loan Agreement, the Unused Revolving Facility Fee was an amount equal to (i) during any Non-Formula Period or any Non-Borrowing Period, three tenths of one percent (0.30%) per annum, and (ii) at any other time, four tenths of one percent (0.40%) per annum, in each case, of the average unused portion of the Revolving Line.
 - The total cash and non-cash consideration payable in connection with a Permitted Acquisition is now \$5 million (down from \$10 million), and in order for the Company to complete a Permitted Acquisition, it must be eligible for a Non-Formula Period immediately prior thereto and, on a pro forma basis, immediately after giving effect to the acquisition.
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The foregoing descriptions of or references to the Restated Loan Agreement are qualified in their entirety by reference to the full text of the Restated Loan Agreement, which is filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated by reference herein.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

(a) The information provided under Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference to the extent applicable.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits : The following materials are filed as exhibits to this Current Report on Form 8-K:

10.1 Amended and Restated Loan and Security Agreement, dated January 31, 2017 , between Electro Scientific Industries, Inc. and Silicon Valley Bank

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 hereunto duly authorized.

Date: February 1, 2017

Electro Scientific Industries, Inc.

By: /s/ Paul Oldham

Name: Paul Oldham

Title: Senior Vice President of Administration, Chief Financial Officer and Corporate Secretary

AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

THIS AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT (this “**Agreement**”) dated as of _____, 2017 (the “**Effective Date**”) between SILICON VALLEY BANK, a California corporation (“**Bank**”), and ELECTRO SCIENTIFIC INDUSTRIES, INC., an Oregon corporation (“**Borrower**”), provides the terms on which Bank shall lend to Borrower and Borrower shall repay Bank. The parties agree as follows:

A. Bank and Borrower have previously entered into that certain Loan and Security Agreement dated as of March 20, 2015, between Borrower and Bank (as the same has been amended, modified, supplemented or restated, the “**Prior Loan Agreement**”).

B. Bank and Borrower have agreed to amend and restate, and replace, the Prior Loan Agreement in its entirety. Bank and Borrower hereby agree that the Prior Loan Agreement is amended and restated in its entirety upon the terms and conditions of this Agreement.

1 ACCOUNTING AND OTHER TERMS

Accounting terms not defined in this Agreement shall be construed following GAAP. Calculations and determinations must be made following GAAP. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 13. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein.

2 LOAN AND TERMS OF PAYMENT

2.1 **Promise to Pay**. Borrower hereby unconditionally promises to pay Bank the outstanding principal amount of all Credit Extensions and accrued and unpaid interest thereon as and when due in accordance with this Agreement.

2.1.1 **Revolving Line**

(a) Availability. Subject to the terms and conditions of this Agreement and to deduction of Reserves, Bank shall make Advances not exceeding the Availability Amount. Amounts borrowed under the Revolving Line may be repaid and, prior to the Revolving Line Maturity Date, reborrowed, subject to the applicable terms and conditions precedent herein.

(b) Termination; Repayment. The Revolving Line terminates on the Revolving Line Maturity Date, when the principal amount of all Advances, the unpaid interest thereon, and all other Obligations relating to the Revolving Line shall be immediately due and payable.

2.1.2 **Letters of Credit Sublimit**

(a) As part of the Revolving Line, Bank shall issue or have issued Letters of Credit denominated in Dollars or a Foreign Currency for Borrower’s account. The aggregate Dollar Equivalent amount utilized for the issuance of Letters of Credit shall, while such Letters of Credit are outstanding, reduce the amount otherwise available for Advances under the Revolving Line. The aggregate Dollar Equivalent of the face amount of outstanding Letters of Credit (including drawn but unreimbursed Letters of Credit and any Letter of Credit Reserve) may not exceed (i) during any Non-Formula Period, the lesser of (A) Fifteen Million Dollars (\$15,000,000.00), or (B) (y) the Revolving Line minus (z) the sum of all outstanding principal amounts of any Advances, and (ii) during any time other than a Non-Formula Period, the lesser of (A) Fifteen Million Dollars (\$15,000,000.00), or (B) (y) the lesser of the Revolving Line or the Borrowing Base, minus (z) the sum of all outstanding principal amounts of any Advances.

(b) If, on the Revolving Line Maturity Date (or the effective date of any termination of this Agreement), there are any outstanding Letters of Credit, then on such date Borrower shall provide to Bank cash collateral in an amount equal to one hundred five percent (105.0%) for Letters of Credit denominated in Dollars or one hundred ten percent (110.0%) for Letters of Credit denominated in a Foreign Currency, in each case of the aggregate Dollar Equivalent of the face amount of all such Letters of Credit plus all interest, fees, and costs due or estimated by Bank to become due in connection therewith, to secure all of the Obligations relating to such Letters of Credit. All Letters of Credit shall be in form and substance acceptable to Bank in its sole discretion and shall be subject to the terms and conditions of Bank’s standard Application and Letter of Credit Agreement (the “**Letter of Credit Application**”).

Borrower agrees to execute any further documentation in connection with the Letters of Credit as Bank may reasonably request. Borrower further agrees to be bound by the regulations and interpretations of the issuer of any Letters of Credit guaranteed by Bank and opened for Borrower's account or by Bank's interpretations of any Letter of Credit issued by Bank for Borrower's account, and Borrower understands and agrees that Bank shall not be liable for any error, negligence, or mistake, whether of omission or commission, in following Borrower's instructions or those contained in the Letters of Credit or any modifications, amendments, or supplements thereto.

(c) The obligation of Borrower to immediately reimburse Bank for drawings made under Letters of Credit shall be absolute, unconditional, and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement, such Letters of Credit, and the Letter of Credit Application.

(d) Borrower may request that Bank issue a Letter of Credit payable in a Foreign Currency. If a demand for payment is made under any such Letter of Credit, Bank shall treat such demand as an Advance to Borrower of the Dollar Equivalent of the amount thereof (plus fees and charges in connection therewith such as wire, cable, SWIFT or similar charges).

(e) To guard against fluctuations in currency exchange rates, upon the issuance of any Letter of Credit payable in a Foreign Currency, Bank shall create a reserve (the "**Letter of Credit Reserve**") under the Revolving Line in an amount equal to ten percent (10.0%) of the face amount of such Letter of Credit. The amount of the Letter of Credit Reserve may be adjusted by Bank from time to time to account for fluctuations in the exchange rate. The availability of funds under the Revolving Line shall be reduced by the amount of such Letter of Credit Reserve for as long as such Letter of Credit remains outstanding.

2.2 Overadvances . If, at any time (other than during a Non-Formula Period), the sum of (a) the outstanding principal amount of any Advances, plus (b) the Dollar Equivalent of the face amount of any outstanding Letters of Credit (including drawn but unreimbursed Letters of Credit and any Letter of Credit Reserve), exceeds the lesser of either the Revolving Line or the Borrowing Base, Borrower shall immediately pay to Bank in cash the amount of such excess (such excess, the "**Overadvance**"). Without limiting Borrower's obligation to repay Bank any Overadvance, Borrower agrees to pay Bank interest on the outstanding amount of any Overadvance, on demand, at the Default Rate.

2.3 Payment of Interest on the Credit Extensions .

(a) Advances . Subject to Section 2.3(b), the principal amount outstanding under the Revolving Line shall accrue interest at a floating per annum rate equal to the Prime Rate plus the applicable Prime Rate Margin, which interest shall be payable monthly in accordance with Section 2.3(d) below.

(b) Default Rate . Immediately upon the occurrence and during the continuance of an Event of Default, Obligations shall bear interest at a rate per annum which is five percent (5.0%) above the rate that is otherwise applicable thereto (the "**Default Rate**"). Fees and expenses which are required to be paid by Borrower pursuant to the Loan Documents (including, without limitation, Bank Expenses) but are not paid when due shall bear interest until paid at a rate equal to the Default Rate. Payment or acceptance of the increased interest rate provided in this Section 2.3(b) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Bank

(c) Adjustment to Interest Rate . Changes to the interest rate of any Credit Extension based on changes to the Prime Rate shall be effective on the effective date of any change to the Prime Rate and to the extent of any such change.

(d) Payment: Interest Computation . Interest is payable in arrears monthly on the Payment Date of each month and shall be computed on the basis of a 360-day year for the actual number of days elapsed. In computing interest, (i) all payments received after 12:00 p.m. Pacific time on any day shall be deemed received at the opening of business on the next Business Day, and (ii) the date of the making of any Credit Extension shall be included and the date of payment shall be excluded; provided, however, that if any Credit Extension is repaid on the same day on which it is made, such day shall be included in computing interest on such Credit Extension.

2.4 Fees . Borrower shall pay to Bank:

(a) Commitment Fee . A fully earned, non-refundable commitment fee of One Hundred Thousand Dollars (\$100,000.00) on the Effective Date;

(b) Anniversary Fees. Fully earned, non-refundable anniversary fees (collectively, the “ **Anniversary Fees** ”) of Twelve Thousand Five Hundred Dollars (\$12,500.00) shall be earned on the Effective Date and shall be due and payable on an annual basis on the earliest to occur of (i) March 20th of each year, (ii) the occurrence of an Event of Default, or (iii) the termination of this Agreement or the Revolving Line;

(c) Letter of Credit Fee. Bank’s customary fees and expenses for the issuance or renewal of Letters of Credit, including, without limitation, a letter of credit fee of (i) during any Non-Formula Period, two percent (2.00%), and (ii) during any time other than a Non-Formula Period, two and one quarter of one percent (2.25%), in each case, per annum of the Dollar Equivalent of the face amount of each Letter of Credit issued, upon the issuance of such Letter of Credit, each anniversary of the issuance during the term of such Letter of Credit, and upon the renewal of such Letter of Credit by Bank;

(d) Unused Revolving Line Facility Fee. Payable monthly in arrears on the last day of each calendar month occurring prior to the Revolving Line Maturity Date and on the Revolving Line Maturity Date, a fee (the “ **Unused Revolving Line Facility Fee** ”) in an amount equal to (i) during any Non-Formula Period or any Non-Borrowing Period, three tenths of one percent (0.30%) per annum, (ii) during any Streamline Period that is not a Non-Borrowing Period, four tenths of one percent (0.40%) per annum, and (iii) during any Off-Streamline Period that is not a Non-Borrowing Period, one half of one percent (0.50%) per annum, in each case, of the average unused portion of the Revolving Line, as determined by Bank, computed on the basis of a year with the applicable number of days as set forth in Section 2.3(d). The unused portion of the Revolving Line, for purposes of this calculation, shall be calculated on a calendar year basis and shall equal the difference between (i) the Revolving Line, and (ii) the average for the period of the daily closing balance of the Revolving Line outstanding, plus the sum of the aggregate amount of outstanding Letters of Credit (including drawn but unreimbursed Letters of Credit and any Letter of Credit Reserve);

(e) Collateral Monitoring Fee. A monthly collateral monitoring fee of Three Thousand Five Hundred Dollars (\$3,500.00), payable in arrears on the last day of each month during any Off-Streamline Period that is not a Non-Borrowing Period (prorated for any partial month at the beginning and upon termination of this Agreement); and

(f) Bank Expenses. All Bank Expenses (including reasonable attorneys’ fees and expenses for documentation and negotiation of this Agreement) incurred through and after the Effective Date, when due (or, if no stated due date, upon demand by Bank).

Unless otherwise provided in this Agreement or in a separate writing by Bank, Borrower shall not be entitled to any credit, rebate, or repayment of any fees earned by Bank pursuant to this Agreement notwithstanding any termination of this Agreement or the suspension or termination of Bank’s obligation to make loans and advances hereunder. Bank may deduct amounts owing by Borrower under the clauses of this Section 2.4 pursuant to the terms of Section 2.5(c). Bank shall provide Borrower written notice of deductions made from the Designated Deposit Account pursuant to the terms of the clauses of this Section 2.4.

2.5 Payments; Application of Payments; Debit of Accounts .

(a) All payments to be made by Borrower under any Loan Document shall be made in immediately available funds in Dollars, without setoff or counterclaim, before 12:00 p.m. Pacific time on the date when due. Payments of principal and/or interest received after 12:00 p.m. Pacific time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment shall be due the next Business Day, and additional fees or interest, as applicable, shall continue to accrue until paid.

(b) Subject to the terms of Section 6.3(c), prior to the occurrence of an Event of Default, payments will be applied as directed by Borrower. Subject to the terms of Section 6.3(c), upon and after the occurrence of an Event of Default, Bank shall have the exclusive right to determine the order and manner in which all payments with respect to the Obligations may be applied and Borrower shall have no right to specify the order or the accounts to which Bank shall allocate or apply any payments required to be made by Borrower to Bank or otherwise received by Bank under this Agreement when any such allocation or application is not specified elsewhere in this Agreement.

(c) Bank may debit any of Borrower’s deposit accounts, including the Designated Deposit Account, for principal and interest payments or any other amounts Borrower owes Bank when due. These debits shall not constitute a set-off.

3 CONDITIONS OF LOANS

3.1 Conditions Precedent to Initial Credit Extension . Bank's obligation to make the initial Credit Extension is subject to the condition precedent that Bank shall have received, in form and substance satisfactory to Bank, such documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate, including, without limitation:

- (a) duly executed original signatures to the Loan Documents;
- (b) duly executed original signatures to any Control Agreement(s) required under this Agreement;
- (c) Borrower's Operating Documents, a long-form current status certificate of Borrower certified by the Secretary of State of the State of Oregon, and a certificate of foreign qualification of Borrower certified by the Secretary of State of the State of California, each as of a date no earlier than thirty (30) days prior to the Effective Date;
- (d) a secretary's certificate of Borrower with respect to Borrower's Operating Documents, incumbency, specimen signatures and resolutions authorizing the execution and delivery of this Agreement and the other Loan Documents to which it is a party;
- (e) duly executed original signatures to the completed Borrowing Resolutions for Borrower;
- (f) certified copies, dated as of a recent date, of financing statement searches, as Bank may request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements either constitute Permitted Liens or have been or, in connection with the initial Credit Extension, will be terminated or released;
- (g) evidence satisfactory to Bank that (i) the Lien on the assets of Visicon Technologies, Inc., in favor of Che Voigt, Chris Hobbs, and Thomas C. and Gayle R. Nelson, and (ii) the Lien on the assets of Borrower in favor of Pearl Beta Funding, LLC, have each been terminated or released;
- (h) the Perfection Certificate of Borrower, together with the duly executed original signature thereto;
- (i) a landlord's consent in favor of Bank with respect to Borrower's leased locations at 13900 and 14000 NW Science Park Drive, Portland, Oregon 97229, by ESI Leasing, LLC, together with the duly executed original signatures thereto;
- (j) a bailee's waiver in favor of Bank with respect to Borrower's property maintained at 229 Yew Street, Forest Grove, Oregon 97116, by High Tech Crating, Inc., together with the duly executed original signatures thereto;
- (k) duly executed original signatures to amendments to and ratifications of the Stock Pledge Agreements;
- (l) evidence satisfactory to Bank that the insurance policies and endorsements required by Section 6.7 hereof are in full force and effect, together with appropriate evidence showing lender loss payable and/or additional insured clauses or endorsements in favor of Bank; and
- (m) payment of the fees and Bank Expenses then due as specified in Section 2.4 hereof.

3.2 Conditions Precedent to all Credit Extensions . Bank's obligations to make each Credit Extension, including the initial Credit Extension, is subject to the following conditions precedent:

- (a) timely receipt of the Credit Extension request and any materials and documents required by Section 3.4;

(b) the representations and warranties in this Agreement shall be true, accurate, and complete in all material respects on the date of the proposed Credit Extension and on the Funding Date of each Credit Extension; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, and no Event of Default shall have occurred and be continuing or result from the Credit Extension. Each Credit Extension is Borrower's representation and warranty on that date that the representations and warranties in this Agreement remain true, accurate, and complete in all material respects; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; and

(c) Bank determines to its satisfaction that there has not been any material impairment in the general affairs, management, results of operation, financial condition or the prospect of repayment of the Obligations, nor any material adverse deviation by Borrower from the most recent business plan of Borrower presented to and accepted by Bank .

3.3 Covenant to Deliver . Borrower agrees to deliver to Bank each item required to be delivered to Bank under this Agreement as a condition precedent to any Credit Extension. Borrower expressly agrees that a Credit Extension made prior to the receipt by Bank of any such item shall not constitute a waiver by Bank of Borrower's obligation to deliver such item, and the making of any Credit Extension in the absence of a required item shall be in Bank's sole discretion.

3.4 Procedures for Borrowing . Subject to the prior satisfaction of all other applicable conditions to the making of an Advance (other than under Section 2.1.2) set forth in this Agreement, to obtain an Advance, Borrower shall notify Bank (which notice shall be irrevocable) by electronic mail by 12:00 p.m. Pacific time on the Funding Date of the Advance. Such notice shall be made by Borrower through Bank's online banking program, provided, however, if Borrower is not utilizing Bank's online banking program, then such notice shall be in a written format acceptable to Bank that is executed by an Authorized Signer. Bank shall have received satisfactory evidence that the Board has approved that such Authorized Signer may provide such notices and request Advances. In connection with any such notification, Borrower must promptly deliver to Bank by electronic mail or through Bank's online banking program such reports and information, including without limitation, sales journals, cash receipts journals, accounts receivable aging reports, as Bank may request in its sole discretion. Bank shall credit proceeds of an Advance to the Designated Deposit Account. Bank may make Advances under this Agreement based on instructions from an Authorized Signer or without instructions if the Advances are necessary to meet Obligations which have become due.

4 CREATION OF SECURITY INTEREST

4.1 Grant of Security Interest . Borrower hereby grants Bank, to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Bank, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof.

Borrower acknowledges that it previously has entered, and/or may in the future enter, into Bank Services Agreements with Bank. Regardless of the terms of any Bank Services Agreement, Borrower agrees that any amounts Borrower owes Bank thereunder shall be deemed to be Obligations hereunder and that it is the intent of Borrower and Bank to have all such Obligations secured by the first priority perfected security interest in the Collateral granted herein (subject only to Permitted Liens that are permitted pursuant to the terms of this Agreement to have superior priority to Bank's Lien in this Agreement).

If this Agreement is terminated, Bank's Lien in the Collateral shall continue until the Obligations (other than inchoate indemnity obligations) are repaid in full in cash. Upon payment in full in cash of the Obligations (other than inchoate indemnity obligations) and at such time as Bank's obligation to make Credit Extensions has terminated, Bank shall, at the sole cost and expense of Borrower, release its Liens in the Collateral and all rights therein shall revert to Borrower. In the event (x) all Obligations (other than inchoate indemnity obligations), except for Bank Services, are satisfied in full, and (y) this Agreement is terminated, Bank shall terminate the security interest granted herein upon Borrower providing cash collateral acceptable to Bank in its good faith business judgment for Bank Services, if any. In the event such Bank Services consist of outstanding Letters of Credit, Borrower shall provide to Bank cash collateral in an amount equal to (x) if such Letters of Credit are denominated in Dollars, then at least one hundred five percent

(105.0%); and (y) if such Letters of Credit are denominated in a Foreign Currency, then at least one hundred ten percent (110.0%), of the Dollar Equivalent of the face amount of all such Letters of Credit plus, in each case, all interest, fees, and costs due or to become due in connection therewith (as estimated by Bank in its business judgment), to secure all of the Obligations relating to such Letters of Credit.

4.2 Priority of Security Interest . Borrower represents, warrants, and covenants that the security interest granted herein is and shall at all times continue to be a first priority perfected security interest in the Collateral (subject only to Permitted Liens that are permitted pursuant to the terms of this Agreement to have superior priority to Bank's Lien under this Agreement). If Borrower shall acquire a commercial tort claim, Borrower shall promptly notify Bank in a writing signed by Borrower of the general details thereof and grant to Bank in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to Bank.

4.3 Authorization to File Financing Statements . Borrower hereby authorizes Bank to file financing statements, without notice to Borrower, with all appropriate jurisdictions to perfect or protect Bank's interest or rights hereunder, including a notice that any disposition of the Collateral, by either Borrower or any other Person, shall be deemed to violate the rights of Bank under the Code. Such financing statements may indicate the Collateral as "all assets of the Debtor" or words of similar effect, or as being of an equal or lesser scope, or with greater detail, all in Bank's discretion.

5 REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants as follows:

5.1 Due Organization, Authorization; Power and Authority . Borrower is duly existing and in good standing as a Registered Organization in its jurisdiction of formation and is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its business or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to have a material adverse effect on Borrower's business. In connection with this Agreement, Borrower has delivered to Bank a completed certificate signed by Borrower, entitled "Perfection Certificate" (the "**Perfection Certificate**"). Borrower represents and warrants to Bank that (a) Borrower's exact legal name is that indicated on the Perfection Certificate and on the signature page hereof; (b) Borrower is an organization of the type and is organized in the jurisdiction set forth in the Perfection Certificate; (c) the Perfection Certificate accurately sets forth Borrower's organizational identification number or accurately states that Borrower has none; (d) the Perfection Certificate accurately sets forth Borrower's place of business, or, if more than one, its chief executive office as well as Borrower's mailing address (if different than its chief executive office); (e) Borrower (and each of its predecessors) has not, in the past five (5) years, changed its jurisdiction of formation, organizational structure or type, or any organizational number assigned by its jurisdiction; and (f) all other information set forth on the Perfection Certificate pertaining to Borrower and each of its Subsidiaries is accurate and complete (it being understood and agreed that Borrower may from time to time update certain information in the Perfection Certificate after the Effective Date to the extent permitted by one or more specific provisions in this Agreement). If Borrower is not now a Registered Organization but later becomes one, Borrower shall promptly notify Bank of such occurrence and provide Bank with Borrower's organizational identification number.

The execution, delivery and performance by Borrower of the Loan Documents to which it is a party have been duly authorized, and do not (i) conflict with any of Borrower's organizational documents, (ii) contravene, conflict with, constitute a default under or violate any material Requirement of Law, (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or any of its Subsidiaries or any of their property or assets may be bound or affected, (iv) require any action by, filing, registration, or qualification with, or Governmental Approval from, any Governmental Authority (except such Governmental Approvals which have already been obtained and are in full force and effect), or (v) conflict with, contravene, constitute a default or breach under, or result in or permit the termination or acceleration of, any material agreement by which Borrower is bound. Borrower is not in default under any agreement to which it is a party or by which it is bound in which the default could reasonably be expected to have a material adverse effect on Borrower's business.

5.2 Collateral . Borrower has good title to, rights in, and the power to transfer each item of the Collateral upon which it purports to grant a Lien hereunder, free and clear of any and all Liens except Permitted Liens. Borrower has no Collateral Accounts at or with any bank or financial institution other than Bank or Bank's Affiliates except for the Collateral Accounts described in the Perfection Certificate delivered to Bank in connection herewith, as the same

may be updated from time to time to describe such new Collateral Accounts with other banks and financial institutions, and which Borrower has taken such actions as are necessary to give Bank a perfected security interest therein, pursuant to the terms of Section 6.8(b). The Accounts are bona fide, existing obligations of the Account Debtors.

The Collateral is not in the possession of any third party bailee (such as a warehouse) except as otherwise provided in the Perfection Certificate. None of the components of the Collateral shall be maintained at locations other than as provided in the Perfection Certificate or as permitted pursuant to Section 7.2.

All Inventory is in all material respects of good and marketable quality, free from material defects.

Borrower is the sole owner of the Intellectual Property which it owns or purports to own except for (a) non-exclusive licenses granted to its customers in the ordinary course of business, (b) over-the-counter software that is commercially available to the public, and (c) material Intellectual Property licensed to Borrower and noted on the Perfection Certificate. Each Patent which it owns or purports to own and which is material to Borrower's business is valid and enforceable, and no part of the Intellectual Property which Borrower owns or purports to own and which is material to Borrower's business has been judged invalid or unenforceable, in whole or in part. To the best of Borrower's knowledge, no claim has been made that any part of the Intellectual Property violates the rights of any third party except to the extent such claim would not reasonably be expected to have a material adverse effect on Borrower's business.

Except as noted on the Perfection Certificate, Borrower is not a party to, nor is it bound by, any Restricted License.

5.3 Accounts Receivable .

(a) For each Account with respect to which Advances are requested, on the date each Advance is requested and made, such Account shall be an Eligible Account.

(b) All statements made and all unpaid balances appearing in all invoices, instruments and other documents evidencing the Eligible Accounts are and shall be true and correct and all such invoices, instruments and other documents, and all of Borrower's Books are genuine and in all respects what they purport to be. All sales and other transactions underlying or giving rise to each Eligible Account shall comply in all material respects with all applicable laws and governmental rules and regulations. Borrower has no knowledge of any actual or imminent Insolvency Proceeding of any Account Debtor whose accounts are Eligible Accounts in any Borrowing Base Report. To the best of Borrower's knowledge, all signatures and endorsements on all documents, instruments, and agreements relating to all Eligible Accounts are genuine, and all such documents, instruments and agreements are legally enforceable in accordance with their terms.

5.4 Litigation . Other than those of which Borrower has notified Bank pursuant to Section 6.2(j) hereof, there are no actions or proceedings pending or, to the knowledge of any Responsible Officer, threatened in writing by or against Borrower or any of its Subsidiaries involving more than, individually or in the aggregate, One Hundred Thousand Dollars (\$100,000.00).

5.5 Financial Statements; Financial Condition . All consolidated financial statements for Borrower and any of its Subsidiaries delivered to Bank fairly present in all material respects Borrower's consolidated financial condition and Borrower's consolidated results of operations. There has not been any material deterioration in Borrower's consolidated financial condition since the date of the most recent financial statements submitted to Bank.

5.6 Solvency . The fair salable value of Borrower's consolidated assets (including goodwill minus disposition costs) exceeds the fair value of Borrower's liabilities; Borrower is not left with unreasonably small capital after the transactions in this Agreement; and Borrower is able to pay its debts (including trade debts) as they mature.

5.7 Regulatory Compliance . Borrower is not an "investment company" or a company "controlled" by an "investment company" under the Investment Company Act of 1940, as amended. Borrower is not engaged as one of its important activities in extending credit for margin stock (under Regulations X, T and U of the Federal Reserve Board of Governors). Borrower (a) has complied in all material respects with all Requirements of Law, and (b) has not violated any Requirements of Law, the violation of which could reasonably be expected to have a material adverse effect on its business. None of Borrower's or any of its Subsidiaries' properties or assets has been used by Borrower or any Subsidiary or, to the best of Borrower's knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than legally. Borrower and each of its Subsidiaries have obtained

all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary to continue their respective businesses as currently conducted.

5.8 Subsidiaries; Investments . Borrower does not own any stock, partnership, or other ownership interest or other equity securities except for Permitted Investments.

5.9 Tax Returns and Payments; Pension Contributions . Borrower has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except (a) to the extent such taxes are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made therefor, or (b) if such taxes, assessments, deposits and contributions do not, individually or in the aggregate, exceed One Hundred Thousand Dollars (\$100,000.00).

To the extent Borrower defers payment of any contested taxes, Borrower shall (i) notify Bank in writing of the commencement of, and any material development in, the proceedings, and (ii) post bonds or take any other steps required to prevent the Governmental Authority levying such contested taxes from obtaining a Lien upon any of the Collateral that is other than a "Permitted Lien." Borrower is unaware of any claims or adjustments proposed for any of Borrower's prior tax years which could result in additional taxes becoming due and payable by Borrower. Borrower has paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and Borrower has not withdrawn from participation in, and has not permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency

5.10 Use of Proceeds . Borrower shall use the proceeds of the Credit Extensions solely as working capital and to fund its general business requirements and not for personal, family, household or agricultural purposes.

5.11 Full Disclosure . No written representation, warranty or other statement of Borrower in any certificate or written statement given to Bank, as of the date such representation, warranty, or other statement was made, taken together with all such written certificates and written statements given to Bank, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the certificates or statements not misleading (it being recognized by Bank that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

5.12 Definition of "Knowledge" . For purposes of the Loan Documents, whenever a representation or warranty is made to Borrower's knowledge or awareness, to the "best of" Borrower's knowledge, or with a similar qualification, knowledge or awareness means the actual knowledge, after reasonable investigation, of any Responsible Officer.

6 AFFIRMATIVE COVENANTS

Borrower shall do all of the following:

6.1 Government Compliance

(a) Maintain its and all its Subsidiaries' legal existence and good standing in their respective jurisdictions of formation and maintain qualification in each jurisdiction in which the failure to so qualify would reasonably be expected to have a material adverse effect on Borrower's business or operations. Borrower shall comply, and have each Subsidiary comply, in all material respects, with all laws, ordinances and regulations to which it is subject.

(b) Obtain all of the Governmental Approvals necessary for the performance by Borrower of its obligations under the Loan Documents to which it is a party and the grant of a security interest to Bank in all of the Collateral. Borrower shall promptly provide copies of any such obtained Governmental Approvals to Bank.

6.2 Financial Statements, Reports, Certificates . Provide Bank with the following:

(a) a Borrowing Base Report (and any schedules related thereto and including any other information reasonably requested by Bank with respect to Borrower's Accounts) (i) with each request for an Advance, (ii) within thirty (30) days after the end of each month, and (iii) no later than Friday of each week during any Off-Streamline Period that is not a Non-Borrowing Period;

(b) within thirty (30) days after the end of each month, (i) monthly accounts receivable agings, aged by invoice date, (ii) monthly accounts payable agings, aged by invoice date, and outstanding or held check registers, if any, and (iii) monthly reconciliations of accounts receivable agings (aged by invoice date), Deferred Revenue report, general ledger, and a detailed Account Debtor listing;

(c) as soon as available, but no later than thirty (30) days after the last day of each month, a company prepared consolidated balance sheet and income statement covering Borrower's consolidated operations for such month, certified by a Responsible Officer and in a form acceptable to Bank (the "**Monthly Financial Statements**");

(d) within thirty (30) days after the last day of each month and together with the Monthly Financial Statements, a duly completed Compliance Certificate signed by a Responsible Officer, certifying that as of the end of such month, Borrower was in full compliance with all of the terms and conditions of this Agreement, and setting forth calculations showing compliance with the financial covenants set forth in this Agreement and such other information as Bank may reasonably request, including, without limitation, a statement that at the end of such month, there were no held checks;

(e) within thirty (30) days after the last day of each month, a written report setting forth Borrower's Cash and Excess Availability for the immediately prior calendar month in a form acceptable to Bank;

(f) as soon as available, but no later than sixty (60) days after the last day of each fiscal year of Borrower, and contemporaneously with any updates or changes thereto, or more frequently as Bank may request, annual operating budgets and financial projections as approved by the Board;

(g) within five (5) days of filing, copies of all periodic and other reports, proxy statements and other materials filed by Borrower with the SEC, any Governmental Authority succeeding to any or all of the functions of the SEC or with any national securities exchange, or distributed to its shareholders, as the case may be. Documents required to be delivered pursuant to the terms hereof (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which Borrower posts such documents, or provides a link thereto, on Borrower's website on the internet at Borrower's website address; provided, however, Borrower shall promptly notify Bank in writing (which may be by electronic mail) of the posting of any such documents;

(h) as soon as available, but no later than five (5) days after filing Borrower's Form 10-K with the SEC, audited consolidated financial statements of Borrower prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm reasonably acceptable to Bank;

(i) within five (5) days of delivery, copies of all statements, reports and notices made available to Borrower's security holders or to any holders of Subordinated Debt;

(j) prompt report of any legal actions pending or threatened in writing against Borrower or any of its Subsidiaries that could reasonably be expected to result in damages or costs to Borrower or any of its Subsidiaries of, individually or in the aggregate, One Hundred Thousand Dollars (\$100,000.00) or more; and

(k) promptly, from time to time, such other information regarding Borrower or compliance with the terms of any Loan Documents as reasonably requested by Bank.

6.3 Accounts Receivable .

(a) Schedules and Documents Relating to Accounts . Borrower shall deliver to Bank Borrowing Base Reports and schedules of collections, as provided in Section 6.2, on Bank's standard forms; provided, however, that Borrower's failure to execute and deliver the same shall not affect or limit Bank's Lien and other rights in all of Borrower's Accounts, nor shall Bank's failure to advance or lend against a specific Account affect or limit Bank's Lien and other rights therein. If requested by Bank, Borrower shall furnish Bank with copies (or, at Bank's request, after

the occurrence and during the continuance of an Event of Default, originals) of all contracts, orders, invoices, and other similar documents, and all shipping instructions, delivery receipts, bills of lading, and other evidence of delivery, for any goods the sale or disposition of which gave rise to such Accounts. In addition, Borrower shall deliver to Bank, copies (or, at Bank's request, after the occurrence and during the continuance of an Event of Default, the originals) of all instruments, chattel paper, security agreements, guarantees and other documents and property evidencing or securing any Accounts, in the same form as received, with all necessary indorsements, and copies of all credit memos.

(b) **Disputes.** Borrower shall promptly notify Bank of all disputes or claims relating to Accounts. Borrower may forgive (completely or partially), compromise, or settle any Account for less than payment in full, or agree to do any of the foregoing so long as (i) Borrower does so in good faith, in a commercially reasonable manner, in the ordinary course of business, in arm's-length transactions, and reports the same to Bank in the regular reports provided to Bank; (ii) no Event of Default has occurred and is continuing; and (iii) after taking into account all such discounts, settlements and forgiveness, the total outstanding Advances will not exceed the lesser of the Revolving Line or the Borrowing Base.

(c) **Collection of Accounts.** Borrower shall direct Account Debtors to deliver or transmit all proceeds of Accounts into a lockbox account, or such other "blocked account" as specified by Bank (either such account, the "**Cash Collateral Account**"). Whether or not an Event of Default has occurred and is continuing, Borrower shall immediately deliver all payments on and proceeds of Accounts to the Cash Collateral Account. All amounts received in the Cash Collateral Account shall be (i) during any Off-Streamline Period, applied to immediately reduce the Obligations, or (ii) during any time other than an Off-Streamline Period, transferred on a daily basis to Borrower's operating account with Bank.

(d) **Returns.** Provided no Event of Default has occurred and is continuing, if any Account Debtor returns any Inventory to Borrower, Borrower shall promptly (i) determine the reason for such return, (ii) issue a credit memorandum to the Account Debtor in the appropriate amount, and (iii) provide a copy of such credit memorandum to Bank, upon request from Bank. In the event any attempted return occurs after the occurrence and during the continuance of any Event of Default, Borrower shall hold the returned Inventory in trust for Bank, and immediately notify Bank of the return of the Inventory.

(e) **Verification.** Bank may, with the prior consent of Borrower (which consent shall not be unreasonably withheld or delayed (provided that after the occurrence and during the continuance of an Event of Default, no consent of Borrower is required)) from time to time, verify directly with the respective Account Debtors the validity, amount and other matters relating to the Accounts, either in the name of Borrower or Bank or such other name as Bank may choose, and notify any Account Debtor of Bank's security interest in such Account.

(f) **No Liability.** Bank shall not be responsible or liable for any shortage or discrepancy in, damage to, or loss or destruction of, any goods, the sale or other disposition of which gives rise to an Account, or for any error, act, omission, or delay of any kind occurring in the settlement, failure to settle, collection or failure to collect any Account, or for settling any Account in good faith for less than the full amount thereof, nor shall Bank be deemed to be responsible for any of Borrower's obligations under any contract or agreement giving rise to an Account. Nothing herein shall, however, relieve Bank from liability for its own gross negligence or willful misconduct.

6.4 Remittance of Proceeds. Except as otherwise provided in Section 6.3(c), deliver, in kind, all proceeds arising from the disposition of any Collateral to Bank in the original form in which received by Borrower not later than the following Business Day after receipt by Borrower, to be applied to the Obligations (a) prior to an Event of Default, pursuant to the terms of Section 2.5(b) hereof, and (b) after the occurrence and during the continuance of an Event of Default, pursuant to the terms of Section 9.4 hereof; provided that, if no Event of Default has occurred and is continuing, Borrower shall not be obligated to remit to Bank the proceeds of the sale of worn out or obsolete Equipment disposed of by Borrower in good faith in an arm's length transaction for an aggregate purchase price of Twenty Five Thousand Dollars (\$25,000.00) or less (for all such transactions in any fiscal year). Borrower agrees that it will not commingle proceeds of Collateral with any of Borrower's other funds or property, but will hold such proceeds separate and apart from such other funds and property and in an express trust for Bank. Nothing in this Section limits the restrictions on disposition of Collateral set forth elsewhere in this Agreement.

6.5 Taxes; Pensions. Timely file, and require each of its Subsidiaries to timely file, all required tax returns and reports and timely pay, and require each of its Subsidiaries to timely pay, all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower and each of its Subsidiaries, except for deferred payment of any taxes contested pursuant to the terms of Section 5.9 hereof, and shall deliver to Bank, on demand,

appropriate certificates attesting to such payments, and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms.

6.6 Access to Collateral; Books and Records . At reasonable times, on five (5) Business Days' notice (provided no notice is required if an Event of Default has occurred and is continuing), Bank, or its agents, shall have the right to inspect the Collateral and the right to audit and copy Borrower's Books. The foregoing inspections and audits shall be conducted at Borrower's expense and no more often than once every twelve (12) months unless an Event of Default has occurred and is continuing in which case such inspections and audits shall occur as often as Bank shall determine is necessary. The foregoing inspections and audits shall be conducted at Borrower's expense, and the charge therefor shall be One Thousand Dollars (\$1,000.00) per person per day (or such higher amount as shall represent Bank's then-current standard charge for the same), plus reasonable out-of-pocket expenses. In the event Borrower and Bank schedule an audit more than ten (10) days in advance, and Borrower cancels or seeks to or reschedules the audit with less than ten (10) days written notice to Bank, then (without limiting any of Bank's rights or remedies) Borrower shall pay Bank a fee of One Thousand Dollars (\$1,000.00) plus any out-of-pocket expenses incurred by Bank to compensate Bank for the anticipated costs and expenses of the cancellation or rescheduling.

6.7 Insurance .

(a) Keep its business and the Collateral insured for risks and in amounts standard for companies in Borrower's industry and location and as Bank may reasonably request. Insurance policies shall be in a form, with financially sound and reputable insurance companies that are not Affiliates of Borrower, and in amounts that are satisfactory to Bank. All policies covering Borrower's property (but not Real Property) shall have a lender's loss payable endorsement showing Bank as lender loss payee. All liability policies shall show, or have endorsements showing, Bank as an additional insured. Bank shall be named as lender loss payee and/or additional insured with respect to any such insurance providing coverage in respect of any Collateral.

(b) Ensure that proceeds payable under any policy covering Borrower's property (but not Real Property) are, at Bank's option, payable to Bank on account of the Obligations. Notwithstanding the foregoing, (a) so long as no Event of Default has occurred and is continuing, Borrower shall have the option of applying the proceeds of any casualty policy up to Two Hundred Fifty Thousand Dollars (\$250,000.00) with respect to any loss, but not exceeding Five Hundred Thousand Dollars (\$500,000.00) in the aggregate for all losses under all casualty policies in any one year, toward the replacement or repair of destroyed or damaged property; provided that any such replaced or repaired property (i) shall be of equal or like value as the replaced or repaired Collateral and (ii) shall be deemed Collateral in which Bank has been granted a first priority security interest, and (b) after the occurrence and during the continuance of an Event of Default, all proceeds payable under such casualty policy shall, at the option of Bank, be payable to Bank on account of the Obligations.

(c) At Bank's request, Borrower shall deliver certified copies of insurance policies and evidence of all premium payments. Each provider of any such insurance required under this Section 6.7 shall agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to Bank, that it will give Bank thirty (30) days prior written notice before any such policy or policies shall be materially altered or canceled. If Borrower fails to obtain insurance as required under this Section 6.7 or to pay any amount or furnish any required proof of payment to third persons and Bank, Bank may make all or part of such payment or obtain such insurance policies required in this Section 6.7, and take any action under the policies Bank deems prudent.

6.8 Accounts .

(a) Maintain its primary and all of its Domestic Subsidiaries' primary U.S. operating, depository and securities accounts with Bank and Bank's Affiliates. In addition to the foregoing, Borrower shall (i) use Bank for all cash management, foreign exchange and merchant services, and (ii) beginning on or before the date that is sixty (60) days after the Effective Date (the "**Transition Date**"), use Bank for all investment management services and maintain its primary investment management accounts with Bank or Bank's Affiliates, so long as Bank and/or Bank's Affiliates are able to provide reasonably competitive terms and requisite services in connection with such services and accounts. Notwithstanding the foregoing, (A) Borrower and its Domestic Subsidiaries (other than ESI Leasing, LLC) shall be permitted to maintain (y) one or more accounts at other banks or financial institutions that are not subject to a Control Agreement, so long as the balances in such accounts together do not exceed Five Hundred Thousand Dollars (\$500,000.00) in the aggregate at any time, and (z) an investment account with T. Rowe Price (collectively, the "**Permitted Accounts**"), and (B) ESI Leasing, LLC shall be permitted to maintain one (1) payment reserve account with First Technology Federal Credit Union, so long as the balance in such account does not exceed One Million One

Hundred Thousand Dollars (\$1,100,000.00) in the aggregate at any time (the “ **First Tech Account** ”), and (C) subject to the limitations described in the immediately following sentence, ESI Leasing, LLC may maintain other accounts with First Technology Federal Credit Union (other than the First Tech Account) only to the extent it is required to do so under the First Tech Loan Agreement. Notwithstanding any other provision of this Section 6.8, the aggregate balances of all accounts (other than the First Tech Account) of ESI Leasing, LLC at all financial institutions (including, without limitation, Bank and Bank’s Affiliates) shall not exceed Six Hundred Thousand Dollars (\$600,000.00) in the aggregate at any time. Foreign Subsidiaries may have primary operating, depository and securities accounts with banks and financial institutions other than Bank and Bank’s Affiliates.

(b) In addition to and without limiting the restrictions in (a), Borrower shall provide Bank five (5) days prior written notice before establishing any Collateral Account at or with any bank or financial institution other than Bank or Bank’s Affiliates. For each Collateral Account that Bank (in its sole discretion) permits Borrower to open or maintain at any time, Borrower shall cause the applicable bank or financial institution (other than Bank) at or with which any Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Bank’s Lien in such Collateral Account in accordance with the terms hereunder which Control Agreement may not be terminated without the prior written consent of Bank. The provisions of the previous sentence shall not apply (i) prior to the Transition Date, to investment management accounts maintained with banks and financial institutions other than Bank and Bank’s Affiliates, (ii) to the Permitted Accounts, or (iii) to deposit accounts exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of Borrower’s employees and identified to Bank by Borrower as such.

6.9 Financial Covenants . At all times, to be reported as of the last day of each month, calculated on a consolidated basis with respect to Borrower and its Subsidiaries:

(a) Maximum Capital Expenditures . Borrower shall not contract for, purchase or make any expenditures or commitments for Capital Expenditures in an aggregate amount in excess of Eight Million Dollars (\$8,000,000.00) in any fiscal year. For the avoidance of doubt, Borrower’s right to make Capital Expenditures is separate and apart from Borrower’s right to make Permitted Acquisitions or the application of casualty proceeds pursuant to Section 6.7(b);

(b) Adjusted Quick Ratio . Borrower shall maintain a ratio of (a) Quick Assets to (b) (i) Current Liabilities minus (ii) the current portion of Deferred Revenue, of at least 1.25 to 1.00; and

(c) Adjusted EBITDA . Borrower shall maintain Adjusted EBITDA for the trailing twelve (12) month period then-ended, of not less than the following (amounts in parentheses indicate negative numbers):

Reporting Date	Adjusted EBITDA
12/31/16	(\$12,500,000)
1/31/17	(\$19,500,000)
2/28/17	(\$19,500,000)
3/31/17	(\$17,500,000)
4/30/17	(\$22,000,000)
5/31/17	(\$22,000,000)
6/30/17	(\$20,000,000)
7/31/17	(\$17,000,000)
8/31/17	(\$17,000,000)
9/30/17	(\$15,000,000)
10/31/17	(\$14,500,000)
11/30/17	(\$14,500,000)
12/31/17	(\$12,500,000)
1/31/18	(\$12,000,000)
2/28/18	(\$12,000,000)
3/31/18	(\$10,000,000)
4/30/18	(\$9,500,000)
5/31/18	(\$9,500,000)
6/30/18	(\$7,500,000)
7/31/18	(\$7,000,000)
8/31/18	(\$7,000,000)
9/30/18	(\$5,000,000)
10/31/18	(\$4,500,000)
11/30/18	(\$4,500,000)
12/31/18	(\$2,500,000)
1/31/19	(\$2,000,000)
2/28/19	(\$2,000,000)
3/31/19	\$0.00

6.10 Protection of Intellectual Property Rights .

(a) (i) Protect, defend and maintain the validity and enforceability of its Intellectual Property; (ii) promptly advise Bank in writing of material infringements or any other event that could reasonably be expected to materially and adversely affect the value of its Intellectual Property; and (iii) not allow any Intellectual Property material to Borrower's business to be abandoned, forfeited or dedicated to the public without Bank's written consent.

(b) Provide written notice to Bank within ten (10) days of entering or becoming bound by any Restricted License (other than over-the-counter software that is commercially available to the public). Borrower shall take such steps as Bank requests to obtain the consent of, or waiver by, any person whose consent or waiver is necessary for (i) any Restricted License to be deemed "Collateral" and for Bank to have a security interest in it that might otherwise be restricted or prohibited by law or by the terms of any such Restricted License, whether now existing or entered into in the future, and (ii) Bank to have the ability in the event of a liquidation of any Collateral to dispose of such Collateral in accordance with Bank's rights and remedies under this Agreement and the other Loan Documents.

6.11 Litigation Cooperation . From the date hereof and continuing through the termination of this Agreement, make available to Bank, without expense to Bank, Borrower and its officers, employees and agents and Borrower's books and records, to the extent that Bank may deem them reasonably necessary to prosecute or defend any third-party suit or proceeding instituted by or against Bank with respect to any Collateral or relating to Borrower.

6.12 Online Banking . Utilize Bank's online banking platform for all matters requested by Bank which shall include, without limitation (and without request by Bank for the following matters), uploading information

pertaining to Accounts and Account Debtors, requesting approval for exceptions, requesting Credit Extensions, and uploading financial statements and other reports required to be delivered by this Agreement (including, without limitation, those described in Section 6.2 of this Agreement).

6.13 Further Assurances . Execute any further instruments and take further action as Bank reasonably requests to perfect or continue Bank's Lien in the Collateral or to effect the purposes of this Agreement. Deliver to Bank, within five (5) days after the same are sent or received, copies of all correspondence, reports, documents and other filings with any Governmental Authority regarding compliance with or maintenance of Governmental Approvals or Requirements of Law or that could reasonably be expected to have a material effect on any of the Governmental Approvals or otherwise on the operations of Borrower or any of its Subsidiaries.

7 NEGATIVE COVENANTS

Borrower shall not do any of the following without Bank's prior written consent:

7.1 Dispositions . Convey, sell, lease, transfer, assign, or otherwise dispose of (collectively, " **Transfer** "), or permit any of its Subsidiaries to Transfer, all or any part of its business or property (excluding Real Property), except for Transfers (a) of Inventory in the ordinary course of business; (b) of worn-out or obsolete Equipment that is, in the reasonable judgment of Borrower, no longer economically practicable to maintain or useful in the ordinary course of business of Borrower; (c) consisting of Permitted Liens and Permitted Investments; (d) consisting of the sale or issuance of any stock of Borrower permitted under Section 7.2 of this Agreement; (e) consisting of Borrower's or any Subsidiary's use or transfer of money or Cash Equivalents in the ordinary course of its business for the payment of ordinary course business expenses in a manner that is not prohibited by the terms of this Agreement or the other Loan Documents, provided further, that ESI Leasing, LLC may use money or Cash Equivalents to the extent required under the First Tech Loan Agreement; (f) of property (excluding Intellectual Property) by Borrower or any Subsidiary to Borrower or any Subsidiary in the ordinary course of business; and (g) consisting of non-exclusive licenses for the use of the property of Borrower or its Subsidiaries in the ordinary course of business.

7.2 Changes in Business, Management, Control, or Business Locations . (a) Engage in or permit any of its Subsidiaries to engage in any business other than the businesses currently engaged in by Borrower and such Subsidiary, as applicable, or reasonably related thereto; (b) liquidate or dissolve (although (i) liquidation or dissolution of a Subsidiary that is not a Credit Party is permitted without notice to or consent from Bank so long as the assets of such Subsidiary are distributed to Borrower or another Subsidiary, and (ii) liquidation or dissolution of a Subsidiary that is a Credit Party is permitted without notice to or consent from Bank so long as the assets of such Subsidiary are distributed to another Credit Party); (c) fail to provide notice to Bank of any Key Person departing from or ceasing to be employed by Borrower within five (5) days after his or her departure from Borrower; or (d) permit or suffer any Change in Control.

Borrower shall not, without at least thirty (30) days prior written notice to Bank: (1) add any new offices or business locations, including warehouses (unless such new offices or business locations contain less than Fifty Thousand Dollars (\$50,000.00) in Borrower's assets or property) or deliver any portion of the Collateral valued, individually or in the aggregate, in excess of One Hundred Thousand Dollars (\$100,000.00) to a bailee at a location other than to a bailee and at a location already disclosed in the Perfection Certificate, (2) change its jurisdiction of organization, (3) change its organizational structure or type, (4) change its legal name, or (5) change any organizational number (if any) assigned by its jurisdiction of organization. If Borrower intends to deliver any portion of the Collateral valued, individually or in the aggregate, in excess of One Hundred Thousand Dollars (\$100,000.00) to a bailee, and Bank and such bailee are not already parties to a bailee agreement governing both the Collateral and the location to which Borrower intends to deliver the Collateral, then Borrower will first receive the written consent of Bank, and such bailee shall execute and deliver a bailee agreement in form and substance satisfactory to Bank in its sole discretion.

7.3 Mergers or Acquisitions . Merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another Person (including, without limitation, by the formation of any Subsidiary), except for Permitted Acquisitions. A Subsidiary may merge or consolidate into another Subsidiary or into Borrower.

7.4 Indebtedness . Create, incur, assume, or be liable for any Indebtedness, or permit any Subsidiary to do so, other than Permitted Indebtedness.

7.5 Encumbrance . Create, incur, allow, or suffer any Lien on any of its property (excluding Real Property) (subject to Section 8.4), or assign or convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, permit any Collateral not to be subject to the first priority security interest granted herein, or enter into any agreement, document, instrument or other arrangement (except with or in favor of Bank) with any Person which directly or indirectly prohibits or has the effect of prohibiting Borrower or any Subsidiary (except for ESI Leasing, LLC pursuant to the terms of the First Tech Loan Agreement or the First Tech Deed of Trust) from assigning, mortgaging, pledging, granting a security interest in or upon, or encumbering any of Borrower's or any Subsidiary's Intellectual Property, except as is otherwise permitted in Section 7.1 hereof and the definition of "Permitted Liens" herein.

7.6 Maintenance of Collateral Accounts . Maintain any Collateral Account except pursuant to the terms of Section 6.8(b) hereof.

7.7 Distributions; Investments . (a) Pay any dividends or make any distribution or payment or redeem, retire or purchase any capital stock, provided that Borrower may (i) pay dividends so long as an Event of Default does not exist at the time of such payment and would not exist after giving effect to such payment, and (ii) repurchase the stock of former employees or consultants pursuant to stock repurchase agreements so long as an Event of Default does not exist at the time of such repurchase and would not exist after giving effect to such repurchase; or (b) directly or indirectly make any Investment (including, without limitation, by the formation of any Subsidiary) other than Permitted Investments, or permit any of its Subsidiaries to do so.

7.8 Transactions with Affiliates . Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower, except for the Lease, the ESI Leasing Guaranty, the First Tech Environmental Indemnity Agreement and transactions that are in the ordinary course of Borrower's business, upon fair and reasonable terms that are no less favorable to Borrower than would be obtained in an arm's length transaction with a non-affiliated Person.

7.9 Subordinated Debt . (a) Make or permit any payment on any Subordinated Debt, except under the terms of the subordination, intercreditor, or other similar agreement to which such Subordinated Debt is subject, or (b) amend any provision in any document relating to the Subordinated Debt which would increase the amount thereof, provide for earlier or greater principal, interest, or other payments thereon, or adversely affect the subordination thereof to Obligations owed to Bank.

7.10 Compliance . Become an "investment company" or a company controlled by an "investment company", under the Investment Company Act of 1940, as amended, or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Credit Extension for that purpose; fail to meet the minimum funding requirements of ERISA, permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur; fail to comply with the Federal Fair Labor Standards Act or violate any other law or regulation, if the violation could reasonably be expected to have a material adverse effect on Borrower's business, or permit any of its Subsidiaries to do so; withdraw or permit any Subsidiary to withdraw from participation in, permit partial or complete termination of, or permit the occurrence of any other event with respect to, any present pension, profit sharing and deferred compensation plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other Governmental Authority.

8 EVENTS OF DEFAULT

Any one of the following shall constitute an event of default (an "**Event of Default**") under this Agreement:

8.1 Payment Default . Borrower fails to (a) make any payment of principal or interest on any Credit Extension when due, or (b) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day cure period shall not apply to payments due on the Revolving Line Maturity Date). During the cure period, the failure to make or pay any payment specified under clause (b) hereunder is not an Event of Default (but no Credit Extension will be made during the cure period);

8.2 Covenant Default .

(a) Borrower fails or neglects to perform any obligation in Sections 6.2(a)-(d) or (f)-(h), 6.3, 6.4, 6.5, 6.7, 6.8, 6.9, 6.10(b), or 6.12, or violates any covenant in Section 7 (provided, however, for Sections 6.2(a)-(d) and (f)-(h), Borrower shall fail to cure such default within three (3) Business Days); or

(b) Borrower fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any Loan Documents, and as to any default (other than those specified in this Section 8) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within ten (10) days after the occurrence thereof; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Credit Extensions shall be made during such cure period). Cure periods provided under this section shall not apply, among other things, to financial covenants or any other covenants set forth in clause (a) above;

8.3 Material Adverse Change . A Material Adverse Change occurs;

8.4 Attachment; Levy; Restraint on Business .

(a) (i) The service of process seeking to attach, by trustee or similar process, any funds of Borrower or of any entity under the control of Borrower (including a Subsidiary), or (ii) a notice of lien or levy is filed against any of Borrower's assets by any Governmental Authority, and the same under subclauses (i) and (ii) hereof are not, within ten (10) days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); provided, however, no Credit Extensions shall be made during any ten (10) day cure period; or

(b) (i) any material portion of Borrower's assets is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents Borrower from conducting all or any material part of its business;

8.5 Insolvency . (a) Borrower is unable to pay its debts (including trade debts) as they become due or otherwise becomes insolvent; (b) Borrower begins an Insolvency Proceeding; or (c) an Insolvency Proceeding is begun against Borrower and is not dismissed or stayed within thirty (30) days (but no Credit Extensions shall be made while any of the conditions described in clause (a) exist and/or until any Insolvency Proceeding is dismissed);

8.6 Other Agreements . There is, under any agreement to which Borrower is a party with a third party or parties, (a) any default resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount individually or in the aggregate in excess of One Hundred Thousand Dollars (\$100,000.00); or (b) any breach or default by Borrower, the result of which could have a material adverse effect on Borrower's business;

8.7 Judgments; Penalties . One or more fines, penalties or final judgments, orders or decrees for the payment of money in an amount, individually or in the aggregate, of at least One Hundred Thousand Dollars (\$100,000.00) (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower by any Governmental Authority, and the same are not, within ten (10) days after the entry, assessment or issuance thereof, discharged, satisfied, or paid, or after execution thereof, stayed or bonded pending appeal, or such judgments are not discharged prior to the expiration of any such stay (provided that no Credit Extensions will be made prior to the satisfaction, payment, discharge, stay, or bonding of such fine, penalty, judgment, order or decree);

8.8 Misrepresentations . Borrower or any Person acting for Borrower makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to Bank or to induce Bank to enter this Agreement or any Loan Document, and such representation, warranty, or other statement is incorrect in any material respect when made;

8.9 Subordinated Debt . Any document, instrument, or agreement evidencing any Subordinated Debt shall for any reason be revoked or invalidated or otherwise cease to be in full force and effect, any Person shall be in breach thereof or contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations shall for any reason be subordinated or shall not have the priority contemplated by this Agreement or any applicable subordination or intercreditor agreement;

8.10 Governmental Approvals . Any Governmental Approval shall have been (a) revoked, rescinded, suspended, modified in an adverse manner or not renewed in the ordinary course for a full term or (b) subject to any decision by a Governmental Authority that designates a hearing with respect to any applications for renewal of any of such Governmental Approval or that could result in the Governmental Authority taking any of the actions described in clause (a) above, and such decision or such revocation, rescission, suspension, modification or non-renewal (i) causes, or could reasonably be expected to cause, a Material Adverse Change, or (ii) adversely affects the legal qualifications of Borrower or any of its Subsidiaries to hold such Governmental Approval in any applicable jurisdiction and such revocation, rescission, suspension, modification or non-renewal could reasonably be expected to affect the status of or legal qualifications of Borrower or any of its Subsidiaries to hold any Governmental Approval in any other jurisdiction; or

8.11 ESI Leasing Guaranty . If Borrower (a) receives written demand for payment and/or performance under the ESI Leasing Guaranty, or (b) pays any amount of its obligations under the ESI Leasing Guaranty.

9 BANK'S RIGHTS AND REMEDIES

9.1 Rights and Remedies . Upon the occurrence and during the continuance of an Event of Default, Bank may, without notice or demand, do any or all of the following:

(a) declare all Obligations immediately due and payable (but if an Event of Default described in Section 8.5 occurs all Obligations are immediately due and payable without any action by Bank);

(b) stop advancing money or extending credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Bank;

(c) demand that Borrower (i) deposit cash with Bank in an amount equal to at least (A) one hundred five percent (105.0%) of the aggregate face amount of all Letters of Credit denominated in Dollars remaining undrawn, and (B) one hundred ten percent (110.0%) of the Dollar Equivalent of the aggregate face amount of all Letters of Credit denominated in a Foreign Currency remaining undrawn (plus, in each case, all interest, fees, and costs due or to become due in connection therewith (as estimated by Bank in its good faith business judgment)), to secure all of the Obligations relating to such Letters of Credit, as collateral security for the repayment of any future drawings under such Letters of Credit, and Borrower shall forthwith deposit and pay such amounts, and (ii) pay in advance all letter of credit fees scheduled to be paid or payable over the remaining term of any Letters of Credit;

(d) demand that Borrower deposit cash with Bank in an amount equal to one hundred five percent (105.0%) of the reimbursement Obligations relating to any existing FX Contracts;

(e) verify the amount of, demand payment of and performance under, and collect any Accounts and General Intangibles, settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that Bank considers advisable, and notify any Person owing Borrower money of Bank's security interest in such funds. Borrower shall collect all payments in trust for Bank and, if requested by Bank, immediately deliver the payments to Bank in the form received from the Account Debtor, with proper endorsements for deposit;

(f) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Borrower shall assemble the Collateral if Bank requests and make it available as Bank designates. Bank may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred. Borrower grants Bank a license to enter and occupy any of its premises, without charge, to exercise any of Bank's rights or remedies;

(g) apply to the Obligations any (i) balances and deposits of Borrower it holds, or (ii) amount held by Bank owing to or for the credit or the account of Borrower;

(h) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral. Bank is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrower's labels, Patents, Copyrights, mask works, rights of use of any name, trade secrets, trade names, Trademarks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Bank's exercise of its rights under this Section, Borrower's rights under all licenses and all franchise agreements inure to Bank's benefit;

(i) place a “hold” on any account maintained with Bank and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;

(j) demand and receive possession of Borrower’s Books; and

(k) exercise all rights and remedies available to Bank under the Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

9.2 Power of Attorney . Borrower hereby irrevocably appoints Bank as its lawful attorney-in-fact, exercisable following the occurrence and during the continuance of an Event of Default, to: (a) endorse Borrower’s name on any checks, payment instruments, or other forms of payment or security; (b) sign Borrower’s name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) settle and adjust disputes and claims about the Accounts directly with Account Debtors, for amounts and on terms Bank determines reasonable; (d) make, settle, and adjust all claims under Borrower’s insurance policies; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, or other claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Bank or a third party as the Code permits. Borrower hereby appoints Bank as its lawful attorney-in-fact to sign Borrower’s name on any documents necessary to perfect or continue the perfection of Bank’s security interest in the Collateral regardless of whether an Event of Default has occurred until all Obligations have been satisfied in full and the Loan Documents have been terminated. Bank’s foregoing appointment as Borrower’s attorney in fact, and all of Bank’s rights and powers, coupled with an interest, are irrevocable until all Obligations have been fully repaid and performed and the Loan Documents have been terminated.

9.3 Protective Payments . If Borrower fails to obtain the insurance called for by Section 6.7 or fails to pay any premium thereon or fails to pay any other amount which Borrower is obligated to pay under this Agreement or any other Loan Document or which may be required to preserve the Collateral, Bank may obtain such insurance or make such payment, and all amounts so paid by Bank are Bank Expenses and immediately due and payable, bearing interest at the then highest rate applicable to the Obligations, and secured by the Collateral. Bank will make reasonable efforts to provide Borrower with notice of Bank obtaining such insurance at the time it is obtained or within a reasonable time thereafter. No payments by Bank are deemed an agreement to make similar payments in the future or Bank’s waiver of any Event of Default.

9.4 Application of Payments and Proceeds Upon Default . If an Event of Default has occurred and is continuing, Bank shall have the right to apply in any order any funds in its possession, whether from Borrower account balances, payments, proceeds realized as the result of any collection of Accounts or other disposition of the Collateral, or otherwise, to the Obligations. Bank shall pay any surplus to Borrower by credit to the Designated Deposit Account or to other Persons legally entitled thereto; Borrower shall remain liable to Bank for any deficiency. If Bank, directly or indirectly, enters into a deferred payment or other credit transaction with any purchaser at any sale of Collateral, Bank shall have the option, exercisable at any time, of either reducing the Obligations by the principal amount of the purchase price or deferring the reduction of the Obligations until the actual receipt by Bank of cash therefor.

9.5 Bank’s Liability for Collateral . So long as Bank complies with reasonable banking practices regarding the safekeeping of the Collateral in the possession or under the control of Bank, Bank shall not be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; (c) any diminution in the value of the Collateral; or (d) any act or default of any carrier, warehouseman, bailee, or other Person. Borrower bears all risk of loss, damage or destruction of the Collateral.

9.6 No Waiver; Remedies Cumulative . Bank’s failure, at any time or times, to require strict performance by Borrower of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of Bank thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by the party granting the waiver and then is only effective for the specific instance and purpose for which it is given. Bank’s rights and remedies under this Agreement and the other Loan Documents are cumulative. Bank has all rights and remedies provided under the Code, by law, or in equity. Bank’s exercise of one right or remedy is not an election and shall not preclude Bank from exercising any other remedy under this Agreement or other remedy available at law or in equity, and Bank’s waiver of any Event of Default is not a continuing waiver. Bank’s delay in exercising any remedy is not a waiver, election, or acquiescence.

9.7 Demand Waiver . Borrower waives demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by Bank on which Borrower is liable.

10 NOTICES

All notices, consents, requests, approvals, demands, or other communication by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Bank or Borrower may change its mailing or electronic mail address or facsimile number by giving the other party written notice thereof in accordance with the terms of this Section 10.

If to Borrower: Electro Scientific Industries, Inc.
13900 NW Science Park Drive
Portland, Oregon 97229
Attn: Treasurer
Fax: (503) 671-5656
Email: wYGanth@esi.com

with a copy to: Stoel Rives LLP
900 SW 5th Ave., Suite 2600
Portland, Oregon 97204
Attn: Steven H. Hull, Esquire
Fax: (503) 294-9122
Email: steven.hull@stoel.com

If to Bank: Silicon Valley Bank
308 SW First Avenue, Suite 201
Portland, Oregon 97204
Attn: Mr. James Caron
Email: JCaron@svb.com

with a copy to: Riemer & Braunstein LLP
Three Center Plaza
Boston, Massachusetts 02108
Attn: David A. Ephraim, Esquire
Fax: (617) 880-3456
Email: DEphraim@riemerlaw.com

11 CHOICE OF LAW, VENUE, AND JURY TRIAL WAIVER

Except as otherwise expressly provided in any of the Loan Documents, New York law governs the Loan Documents without regard to principles of conflicts of law. Borrower and Bank each submit to the exclusive jurisdiction of the State and Federal courts in New York, New York; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Bank from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Bank. Borrower expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and Borrower hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Borrower hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to Borrower at the address set forth in, or subsequently provided by Borrower in accordance with, Section 10 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of Borrower's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND BANK EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL .

This Section 11 shall survive the termination of this Agreement.

12 GENERAL PROVISIONS

12.1 Termination Prior to Revolving Line Maturity Date; Survival . All covenants, representations and warranties made in this Agreement shall continue in full force until this Agreement has terminated pursuant to its terms and all Obligations have been satisfied. So long as Borrower has satisfied the Obligations (other than inchoate indemnity obligations, any other obligations which, by their terms, are to survive the termination of this Agreement, and any Obligations under Bank Services Agreements that are cash collateralized in accordance with Section 4.1 of this Agreement), this Agreement may be terminated prior to the Revolving Line Maturity Date by Borrower, effective three (3) Business Days after written notice of termination is given to Bank. Those obligations that are expressly specified in this Agreement as surviving this Agreement's termination shall continue to survive notwithstanding this Agreement's termination.

12.2 Successors and Assigns . This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not assign this Agreement or any rights or obligations under it without Bank's prior written consent (which may be granted or withheld in Bank's discretion). Bank has the right, without the consent of or notice to Borrower, to sell, transfer, assign, negotiate, or grant participation in all or any part of, or any interest in, Bank's obligations, rights, and benefits under this Agreement and the other Loan Documents.

12.3 General Indemnification . Borrower agrees to indemnify, defend and hold Bank and its directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing Bank (each, an "**Indemnified Person** ") harmless against: (a) all obligations, demands, claims, and liabilities (collectively, "**Claims** ") claimed or asserted by any other party in connection with the transactions contemplated by the Loan Documents; and (b) all losses or expenses (including Bank Expenses) in any way suffered, incurred, or paid by such Indemnified Person as a result of, following from, consequential to, or arising from transactions between Bank and Borrower (including reasonable attorneys' fees and expenses), except for Claims and/or losses directly caused by such Indemnified Person's gross negligence or willful misconduct.

This Section 12.3 shall survive until all statutes of limitation with respect to the Claims, losses, and expenses for which indemnity is given shall have run.

12.4 Time of Essence . Time is of the essence for the performance of all Obligations in this Agreement.

12.5 Severability of Provisions . Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

12.6 Correction of Loan Documents . Bank may correct patent errors and fill in any blanks in the Loan Documents consistent with the agreement of the parties.

12.7 Amendments in Writing; Waiver; Integration . No purported amendment or modification of any Loan Document, or waiver, discharge or termination of any obligation under any Loan Document, shall be enforceable or admissible unless, and only to the extent, expressly set forth in a writing signed by the party against which enforcement or admission is sought. Without limiting the generality of the foregoing, no oral promise or statement, nor any action, inaction, delay, failure to require performance or course of conduct shall operate as, or evidence, an amendment, supplement or waiver or have any other effect on any Loan Document. Any waiver granted shall be limited to the specific circumstance expressly described in it, and shall not apply to any subsequent or other circumstance, whether similar or dissimilar, or give rise to, or evidence, any obligation or commitment to grant any further waiver. The Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of the Loan Documents merge into the Loan Documents.

12.8 Counterparts . This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement.

12.9 Confidentiality . In handling any confidential information, Bank shall exercise the same degree of care that it exercises for its own proprietary information, but disclosure of information may be made: (a) to Bank's Subsidiaries or Affiliates (such Subsidiaries and Affiliates, together with Bank, collectively, "**Bank Entities** "); (b) to prospective transferees or purchasers of any interest in the Credit Extensions (provided, however, Bank shall use commercially reasonable efforts to obtain any prospective transferee's or purchaser's agreement to the terms of this provision); (c) as required by law, regulation, subpoena, or other order; (d) to Bank's regulators or as otherwise required in connection with Bank's examination or audit; (e) as Bank considers appropriate in exercising remedies under the Loan Documents; and (f) to third-party service providers of Bank so long as such service providers have executed a confidentiality agreement with Bank with terms no less restrictive than those contained herein. Confidential information does not include information that is either: (i) in the public domain or in Bank's possession when disclosed to Bank, or becomes part of the public domain (other than as a result of its disclosure by Bank in violation of this Agreement) after disclosure to Bank; or (ii) disclosed to Bank by a third party, if Bank does not know that the third party is prohibited from disclosing the information.

Bank Entities may use confidential information for the development of databases, reporting purposes, and market analysis so long as such confidential information is aggregated and anonymized prior to distribution unless otherwise expressly permitted by Borrower. The provisions of the immediately preceding sentence shall survive the termination of this Agreement.

12.10 Electronic Execution of Documents . The words "execution," "signed," "signature" and words of like import in any Loan Document shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity and enforceability as a manually executed signature or the use of a paper-based recordkeeping systems, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act.

12.11 Right of Setoff . Borrower hereby grants to Bank a Lien and a right of setoff as security for all Obligations to Bank, whether now existing or hereafter arising upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Bank or any entity under the control of Bank (including a subsidiary of Bank) or in transit to any of them. At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, Bank may setoff the same or any part thereof and apply the same to any liability or Obligation of Borrower even though unmatured and regardless of the adequacy of any other collateral securing the Obligations. ANY AND ALL RIGHTS TO REQUIRE BANK TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF BORROWER ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

12.12 Captions . The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

12.13 Construction of Agreement . The parties mutually acknowledge that they and their attorneys have participated in the preparation and negotiation of this Agreement. In cases of uncertainty this Agreement shall be construed without regard to which of the parties caused the uncertainty to exist.

12.14 Relationship . The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. The parties do not intend to create any agency, partnership, joint venture, trust, fiduciary or other relationship with duties or incidents different from those of parties to an arm's-length contract.

12.15 Third Parties . Nothing in this Agreement, whether express or implied, is intended to: (a) confer any benefits, rights or remedies under or by reason of this Agreement on any persons other than the express parties to it and their respective permitted successors and assigns; (b) relieve or discharge the obligation or liability of any person not an express party to this Agreement; or (c) give any person not an express party to this Agreement any right of subrogation or action against any party to this Agreement.

12.16 Future Transactions . Borrower has notified Bank that after the Effective Date Borrower may seek to enter into (a) certain transactions with respect to Borrower's real property, and/or (b) certain accounts receivable

factoring arrangements (collectively, (a) and (b), the “ **Proposed Future Transactions** ”). Borrower acknowledges that the consummation of any Proposed Future Transaction requires prior written consent of Bank, and Bank agrees to timely review the relevant term sheets and/or documentation relating to Proposed Future Transactions.

12.17 No Novation. Nothing contained herein shall in any way impair the Prior Loan Agreement and other Loan Documents now held for the Obligations, nor affect or impair any rights, powers, or remedies under the Prior Loan Agreement or any Loan Document, it being the intent of the parties hereto that this Agreement shall not constitute a novation of the Prior Loan Agreement or an accord and satisfaction of the Obligations. Borrower hereby ratifies and reaffirms the validity and enforceability of all of the liens and security interests heretofore granted pursuant to the Loan Documents, as collateral security for the Obligations, and acknowledges that all of such liens and security interests, and all Collateral heretofore pledged as security for the Obligations, continues to be and remains Collateral for the Obligations from and after the date hereof.

12.18 Amended and Restated Agreement . This Agreement amends and restates, in its entirety, and replaces, the Prior Loan Agreement.

13 DEFINITIONS.

13.1 Definitions . As used in the Loan Documents, the word “shall” is mandatory, the word “may” is permissive, the word “or” is not exclusive, the words “includes” and “including” are not limiting, and the singular includes the plural. As used in this Agreement, the following capitalized terms have the following meanings:

“ **Account** ” is any “account” as defined in the Code with such additions to such term as may hereafter be made, and includes, without limitation, all accounts receivable and other sums owing to Borrower.

“ **Account Debtor** ” is any “account debtor” as defined in the Code with such additions to such term as may hereafter be made.

“ **Acquisition** ” is (a) the purchase or other acquisition by Borrower of all or substantially all of the assets of any other Person, or (b) the purchase or other acquisition (whether by means of merger, consolidation, or otherwise) by Borrower of all or substantially all of the stock or other equity interest of any other Person.

“ **Adjusted EBITDA** ” shall mean (a) Net Income, plus (b) Interest Expense, plus (c) to the extent deducted in the calculation of Net Income, depreciation expense and amortization expense, plus (d) income tax expense, plus (e) non-cash stock compensation, plus (f) one-time, non-cash charges approved by Bank in writing in its sole but reasonable discretion, plus (g) one-time, cash charges in an aggregate amount not to exceed Five Million Dollars (\$5,000,000.00) for restructuring costs incurred through Borrower’s fiscal year ending March 31, 2018, plus (h) one-time, non-cash charges for restructuring costs incurred during Borrower’s fiscal year ending March 31, 2018, minus (i) cash payments related to the non-cash charges referenced in clause (h) hereof.

“ **Advance** ” or “ **Advances** ” means a revolving credit loan (or revolving credit loans) under the Revolving Line.

“ **Affiliate** ” is, with respect to any Person, each other Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person’s senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person’s managers and members.

“ **Agreement** ” is defined in the preamble hereof.

“ **Anniversary Fees** ” is defined in Section 2.4(b).

“ **Authorized Signer** ” is any individual listed in Borrower’s Borrowing Resolution who is authorized to execute the Loan Documents, including making (and executing if applicable) any Credit Extension request, on behalf of Borrower.

“ **Availability Amount** ” is (a) during any Non-Formula Period, (i) the Revolving Line, minus (ii) the aggregate Dollar Equivalent amount of all outstanding Letters of Credit (including drawn but unreimbursed Letters of Credit) plus an amount equal to the Letter of Credit Reserve, minus (iii) the outstanding principal balance of any Advances,

and (b) during any time other than a Non-Formula Period, (i) the lesser of (A) the Revolving Line or (B) the amount available under the Borrowing Base, minus (ii) the aggregate Dollar Equivalent amount of all outstanding Letters of Credit (including drawn but unreimbursed Letters of Credit) plus an amount equal to the Letter of Credit Reserve, minus (iii) the outstanding principal balance of any Advances.

“**Bank**” is defined in the preamble hereof.

“**Bank Entities**” is defined in Section 12.9.

“**Bank Expenses**” are all audit fees and expenses, costs, and expenses (including reasonable attorneys’ fees and expenses) for preparing, amending, negotiating, administering, defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred with respect to Borrower.

“**Bank Services**” are any products, credit services, and/or financial accommodations previously, now, or hereafter provided to Borrower or any of its Subsidiaries by Bank or any Bank Affiliate, including, without limitation, any letters of credit, cash management services (including, without limitation, merchant services, direct deposit of payroll, business credit cards, and check cashing services), interest rate swap arrangements, and foreign exchange services as any such products or services may be identified in Bank’s various agreements related thereto (each, a “**Bank Services Agreement**”).

“**Bank Services Agreement**” is defined in the definition of “Bank Services”.

“**Board**” is Borrower’s board of directors.

“**Borrower**” is defined in the preamble hereof.

“**Borrower’s Books**” are all Borrower’s books and records including ledgers, federal and state tax returns, records regarding Borrower’s assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

“**Borrowing Base**” is eighty percent (80.0%) of Eligible Accounts, as determined by Bank from Borrower’s most recent Borrowing Base Report (and as may subsequently be updated by Bank in Bank’s sole discretion based upon information received by Bank including, without limitation, Accounts that are paid and/or billed following the date of the Borrowing Base Report); provided, however, that Bank has the right, after consultation with Borrower, to decrease the foregoing percentage in its good faith business judgment to mitigate the impact of events, conditions, contingencies, or risks which may adversely affect the Collateral or its value.

“**Borrowing Base Report**” is that certain report of the value of certain Collateral in the form attached hereto as Exhibit D.

“**Borrowing Resolutions**” are, with respect to any Person, those resolutions adopted by such Person’s board of directors (and, if required under the terms of such Person’s Operating Documents, stockholders) and delivered by such Person to Bank approving the Loan Documents to which such Person is a party and the transactions contemplated thereby, together with a certificate executed by its secretary on behalf of such Person certifying (a) such Person has the authority to execute, deliver, and perform its obligations under each of the Loan Documents to which it is a party, (b) that set forth as a part of or attached as an exhibit to such certificate is a true, correct, and complete copy of the resolutions then in full force and effect authorizing and ratifying the execution, delivery, and performance by such Person of the Loan Documents to which it is a party, (c) the name(s) of the Person(s) authorized to execute the Loan Documents, including making (and executing if applicable) any Credit Extension request, on behalf of such Person, together with a sample of the true signature(s) of such Person(s), and (d) that Bank may conclusively rely on such certificate unless and until such Person shall have delivered to Bank a further certificate canceling or amending such prior certificate.

“**Business Day**” is any day that is not a Saturday, Sunday or a day on which Bank is closed.

“**Capital Expenditures**” means, with respect to any Person for any period, the sum of (a) the aggregate of all expenditures by such Person and its Subsidiaries during such period that are capital expenditures as determined in accordance with GAAP, whether such expenditures are paid in cash or financed, plus (b) to the extent not covered by clause (a), the aggregate of all expenditures by such Person and its Subsidiaries during such period to acquire by

purchase or otherwise the business or capitalized assets or the capital stock of any other Person. For the avoidance of doubt, Capital Expenditures shall not include goods that are internally produced, and are capitalized in Borrower's books and records consistent with Borrower's current practices in effect as of the Effective Date.

“**Cash and Excess Availability**” is, as of any date of determination, the sum of (a) the aggregate amount of unrestricted cash and Cash Equivalents held at such time by Borrower in Deposit Accounts or Securities Accounts maintained with Bank, or in an account maintained with a financial institution other than Bank if such account and all property therein is subject to a Control Agreement in favor of Bank, and (b) the Availability Amount.

“**Cash Collateral Account**” is defined in Section 6.3(c).

“**Cash Equivalents**” means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof; (b) commercial paper having a minimum rating of A3 from Standard & Poor's Ratings Group or Moody's Investors Service, Inc.; (c) Bank's certificates of deposit; and (d) money market funds at least ninety-five percent (95%) of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (c) of this definition, in each case consistent with Borrower's Board-approved Investment Policy dated as of February 16, 2016 (as may be amended from time to time and promptly delivered to Bank following each such amendment).

“**Change in Control**” means (a) at any time, any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) shall become, or obtain rights (whether by means of warrants, options or otherwise) to become, the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of forty percent (40.0%) or more of the ordinary voting power for the election of directors of Borrower (determined on a fully diluted basis) other than by the sale of Borrower's equity securities in a public offering or to venture capital or private equity investors so long as Borrower identifies to Bank the venture capital or private equity investors at least seven (7) Business Days prior to the closing of the transaction and provides to Bank a description of the material terms of the transaction; (b) during any period of twelve (12) consecutive months, a majority of the members of the board of directors or other equivalent governing body of Borrower cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or (c) at any time, Borrower shall cease to own and control, of record and beneficially, directly or indirectly, one hundred percent (100.0%) of each class of outstanding capital stock of each subsidiary of Borrower free and clear of all Liens (except Liens created by this Agreement).

“**Claims**” is defined in Section 12.3.

“**Code**” is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of New York; provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Bank's Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of New York, the term “**Code**” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

“**Collateral**” is any and all properties, rights and assets of Borrower described on Exhibit A.

“**Collateral Account**” is any Deposit Account, Securities Account, or Commodity Account.

“**Commodity Account**” is any “commodity account” as defined in the Code with such additions to such term as may hereafter be made.

“**Compliance Certificate**” is that certain certificate in the form attached hereto as Exhibit B.

“**Contingent Obligation**” is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation, in each

case, directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but “Contingent Obligation” does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

“ **Control Agreement** ” is any control agreement entered into among the depository institution at which Borrower maintains a Deposit Account or the securities intermediary or commodity intermediary at which Borrower maintains a Securities Account or a Commodity Account, Borrower, and Bank pursuant to which Bank obtains control (within the meaning of the Code) over such Deposit Account, Securities Account, or Commodity Account.

“ **Copyrights** ” are any and all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret.

“ **Credit Extension** ” is any Advance, Overadvance, Letter of Credit, or any other extension of credit by Bank for Borrower’s benefit.

“ **Credit Party** ” is any Borrower under this Agreement or any secured guarantor of all or any part of the Obligations.

“ **Current Liabilities** ” are all obligations and liabilities of Borrower to Bank, plus, without duplication, the aggregate amount of Borrower’s Total Liabilities that mature within one (1) year.

“ **Default Rate** ” is defined in Section 2.3(b).

“ **Deferred Revenue** ” is all amounts received or invoiced in advance of performance under contracts and not yet recognized as revenue.

“ **Deposit Account** ” is any “deposit account” as defined in the Code with such additions to such term as may hereafter be made.

“ **Designated Deposit Account** ” is the account number ending in 1646, maintained by Borrower with Bank.

“ **Dollars** , ” “ **dollars** ” or use of the sign “ **\$** ” means only lawful money of the United States and not any other currency, regardless of whether that currency uses the “\$” sign to denote its currency or may be readily converted into lawful money of the United States.

“ **Dollar Equivalent** ” is, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in a Foreign Currency, the equivalent amount therefor in Dollars as determined by Bank at such time on the basis of the then-prevailing rate of exchange in San Francisco, California, for sales of the Foreign Currency for transfer to the country issuing such Foreign Currency.

“ **Domestic Subsidiary** ” means a Subsidiary organized under the laws of the United States or any state or territory thereof or the District of Columbia.

“ **Effective Date** ” is defined in the preamble hereof.

“ **Eligible Accounts** ” means Accounts which arise in the ordinary course of Borrower’s business that meet all Borrower’s representations and warranties in Section 5.3. Bank reserves the right at any time after the Effective Date to adjust any of the criteria set forth below and to establish new criteria in its good faith business judgment. Unless Bank otherwise agrees in writing, Eligible Accounts shall not include:

- (a) Accounts for which the Account Debtor is Borrower’s Affiliate, officer, employee, or agent, and Accounts that are intercompany Accounts;

- (b) Accounts that the Account Debtor has not paid within one hundred twenty (120) days of invoice date regardless of invoice payment period terms;
- (c) Accounts (or portions of such Accounts) with credit balances over one hundred twenty (120) days from invoice date (but only to the extent the credit balance of each such Account is over one hundred twenty (120) days);
- (d) Accounts owing from an Account Debtor if fifty percent (50%) or more of the Accounts owing from such Account Debtor have not been paid within one hundred twenty (120) days of invoice date;
- (e) Accounts owing from an Account Debtor which does not have its principal place of business in the United States or Canada, unless such Accounts are otherwise approved by Bank in writing, on a case by case basis in its sole and absolute discretion (except for Eligible Foreign Accounts);
- (f) Accounts billed from and/or payable to Borrower outside of the United States (sometimes called foreign invoiced accounts);
- (g) Accounts owing from an Account Debtor to the extent that Borrower is indebted or obligated in any manner to the Account Debtor (as creditor, lessor, supplier or otherwise - sometimes called "contra" accounts, accounts payable, customer deposits or credit accounts, but only up to the amount of such indebtedness or obligation);
- (h) Accounts owing from an Account Debtor which is a United States government entity or any department, agency, or instrumentality thereof unless Borrower has assigned its payment rights to Bank and the assignment has been acknowledged under the Federal Assignment of Claims Act of 1940, as amended;
- (i) Accounts for demonstration or promotional equipment, or in which goods are consigned, or sold on a "sale guaranteed", "sale or return", "sale on approval", or other terms if Account Debtor's payment may be conditional;
- (j) Accounts owing from an Account Debtor where goods or services have not yet been rendered to the Account Debtor (sometimes called memo billings or pre-billings);
- (k) Accounts subject to contractual arrangements between Borrower and an Account Debtor where payments shall be scheduled or due according to completion or fulfillment requirements where the Account Debtor has a right of offset for damages suffered as a result of Borrower's failure to perform in accordance with the contract (sometimes called contracts accounts receivable, progress billings, milestone billings, or fulfillment contracts);
- (l) Accounts owing from an Account Debtor the amount of which may be subject to withholding based on the Account Debtor's satisfaction of Borrower's complete performance (but only to the extent of the amount withheld; sometimes called retainage billings);
- (m) Accounts subject to trust provisions, subrogation rights of a bonding company, or a statutory trust;
- (n) Accounts owing from an Account Debtor that has been invoiced for goods that have not been shipped to the Account Debtor unless Bank, Borrower, and the Account Debtor have entered into an agreement acceptable to Bank wherein the Account Debtor acknowledges that (i) it has title to and has ownership of the goods wherever located, (ii) a bona fide sale of the goods has occurred, and (iii) it owes payment for such goods in accordance with invoices from Borrower (sometimes called "bill and hold" accounts);
- (o) Accounts for which the Account Debtor has not been invoiced;
- (p) Accounts that represent non-trade receivables or that are derived by means other than in the ordinary course of Borrower's business;
- (q) Accounts (or portions of such Accounts) for which Borrower has permitted Account Debtor's payment to extend beyond one hundred twenty (120) days, including Accounts with a due date that is more than one hundred twenty (120) days from invoice date (but only to the extent each such Account extends beyond one hundred twenty (120) days);

- (r) Accounts arising from chargebacks, debit memos or other payment deductions taken by an Account Debtor;
- (s) Accounts arising from product returns and/or exchanges (sometimes called “warranty” or “RMA” accounts);
- (t) Accounts in which the Account Debtor disputes liability or makes any claim (but only up to the disputed or claimed amount), or if the Account Debtor is subject to an Insolvency Proceeding, or becomes insolvent, or goes out of business;
- (u) Accounts owing from an Account Debtor with respect to which Borrower has received Deferred Revenue (but only to the extent of such Deferred Revenue), unless otherwise approved by Bank in writing, on a case by case basis in its sole and absolute discretion;
- (v) Accounts owing from an Account Debtor whose total obligations to Borrower exceed twenty-five percent (25.0%) of all Accounts, except for the Account Debtors set forth on Exhibit C, for which such percentage is thirty-five percent (35.0%), for the amounts that exceed that percentage, unless otherwise approved by Bank in writing, on a case by case basis in its sole and absolute discretion; and
- (w) Accounts for which Bank in its good faith business judgment determines collection to be doubtful, including, without limitation, accounts represented by “refreshed” or “recycled” invoices.

“**Eligible Foreign Accounts**” are Accounts which are billed from and payable to Borrower in the United States in Dollars, but are owing from an Account Debtor which has its principal place of business outside of the United States or Canada, and are otherwise Eligible Accounts.

“**Equipment**” is all “equipment” as defined in the Code with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

“**ERISA**” is the Employee Retirement Income Security Act of 1974, and its regulations.

“**ESI Leasing Guaranty**” is that certain unsecured Unconditional Guaranty of Payment dated January 9, 2017, by Borrower in favor of First Technology Federal Credit Union, as amended, modified, supplemented or restated from time to time with Bank’s prior written consent.

“**ESI Leasing, LLC**” means ESI Leasing, LLC, an Oregon limited liability company, and any successor thereto.

“**Event of Default**” is defined in Section 8.

“**Exchange Act**” is the Securities Exchange Act of 1934, as amended.

“**First Tech Account**” is defined in Section 6.8(a).

“**First Tech Deed of Trust**” means that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated January 9, 2017, by ESI Leasing, LLC to WFG National Title Insurance Company, as trustee, for the benefit of First Technology Federal Credit Union.

“**First Tech Environmental Indemnity Agreement**” means that certain Environmental Indemnity Agreement dated January 9, 2017, by ESI Leasing, LLC and Borrower in favor of First Technology Federal Credit Union.

“**First Tech Loan Agreement**” means that certain Loan Agreement dated January 9, 2017, between ESI Leasing, LLC and First Technology Federal Credit Union, as amended, modified, supplemented or restated from time to time with Bank’s prior written consent.

“**Foreign Currency**” means lawful money of a country other than the United States.

“**Foreign Subsidiary**” means any Subsidiary which is not a Domestic Subsidiary.

“ **Funding Date** ” is any date on which a Credit Extension is made to or for the account of Borrower which shall be a Business Day.

“ **FX Contract** ” is any foreign exchange contract by and between Borrower and Bank under which Borrower commits to purchase from or sell to Bank a specific amount of Foreign Currency on a specified date.

“ **GAAP** ” is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

“ **General Intangibles** ” is all “general intangibles” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation, all Intellectual Property, claims, income and other tax refunds, security and other deposits, payment intangibles, contract rights, options to purchase or sell property (excluding Real Property), rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including without limitation key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

“ **Governmental Approval** ” is any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

“ **Governmental Authority** ” is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

“ **Indebtedness** ” is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) capital lease obligations, and (d) Contingent Obligations.

“ **Indemnified Person** ” is defined in Section 12.3.

“ **Indirect Credit Extension** ” is any Credit Extension for (a) cash management services, (b) foreign exchange contracts, or (c) undrawn standby letters of credit issued in accordance with Section 2.1.2 in an aggregate face amount of less than One Hundred Thousand Dollars (\$100,000.00).

“ **Insolvency Proceeding** ” is any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

“ **Intellectual Property** ” means, with respect to any Person, all of such Person’s right, title, and interest in and to the following:

- (a) its Copyrights, Trademarks and Patents;
- (b) any and all trade secrets and trade secret rights, including, without limitation, any rights to unpatented inventions, know-how and operating manuals;
- (c) any and all source code;
- (d) any and all design rights which may be available to such Person;
- (e) any and all claims for damages by way of past, present and future infringement of any of the foregoing, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the Intellectual Property rights identified above; and

(f) all amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents.

“**Interest Expense**” means for any fiscal period, interest expense (whether cash or non-cash) determined in accordance with GAAP for the relevant period ending on such date, including, in any event, interest expense with respect to any Credit Extension and other Indebtedness of Borrower and its Subsidiaries, including, without limitation or duplication, all commissions, discounts, or related amortization and other fees and charges with respect to letters of credit and bankers’ acceptance financing and the net costs associated with interest rate swap, cap, and similar arrangements, and the interest portion of any deferred payment obligation (including leases of all types).

“**Inventory**” is all “inventory” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products, including without limitation such inventory as is temporarily out of Borrower’s custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

“**Investment**” is any beneficial ownership interest in any Person (including stock, partnership interest or other securities), and any loan, advance or capital contribution to any Person.

“**Key Person**” is each of Borrower’s (a) Chief Executive Officer, who is Michael Burger as of the Effective Date, and (b) Chief Financial Officer, who is Paul Oldham as of the Effective Date.

“**Lease**” means that certain Lease dated January 9, 2017, between ESI Leasing, LLC and Borrower, as amended, modified, supplemented or restated from time to time with Bank’s prior written consent.

“**Letter of Credit**” means a standby letter of credit issued by Bank or another institution based upon an application, guarantee, indemnity or similar agreement on the part of Bank as set forth in Section 2.1.2.

“**Letter of Credit Application**” is defined in Section 2.1.2.

“**Letter of Credit Reserve**” is defined in Section 2.1.2.

“**Lien**” is a claim, mortgage, deed of trust, levy, charge, pledge, security interest or other encumbrance of any kind, whether voluntarily incurred or arising by operation of law or otherwise against any property.

“**Loan Documents**” are, collectively, this Agreement and any schedules, exhibits, certificates, notices, and any other documents related to this Agreement, the Perfection Certificate, any Stock Pledge Agreement, any Bank Services Agreement, any subordination agreement, any note, or notes or guaranties executed by Borrower, and any other present or future agreement by Borrower with or for the benefit of Bank in connection with this Agreement or Bank Services, all as amended, restated, or otherwise modified.

“**Material Adverse Change**” is (a) a material impairment in the perfection or priority of Bank’s Lien in the Collateral or in the value of such Collateral; (b) a material adverse change in the business, operations, or condition (financial or otherwise) of Borrower; (c) a material impairment of the prospect of repayment of any portion of the Obligations; or (d) Bank determines, based upon information available to it and in its reasonable judgment, that there is a reasonable likelihood that Borrower shall fail to comply with one or more of the financial covenants in Section 6 during the next succeeding financial reporting period.

“**Monthly Financial Statements**” is defined in Section 6.2(c).

“**Net Income**” means, as calculated on a consolidated basis for Borrower and its Subsidiaries for any period as at any date of determination, the net profit (or loss), after provision for taxes, of Borrower and its Subsidiaries for such period taken as a single accounting period.

“**Non-Borrowing Period**” is, on and after the Effective Date and prior to the initial Credit Extension (other than any Indirect Credit Extension), any period of time during which Borrower (a) maintains unrestricted cash and Cash Equivalents in Deposit Accounts or Securities Accounts with Bank, or in an account maintained with a financial institution other than Bank if such account and all property therein is subject to a Control Agreement in favor of Bank,

in an amount of at least Twenty Million Dollars (\$20,000,000.00) and (b) has no more than Zero Dollars (\$0.00) of outstanding Obligations (excluding for such purposes obligations related to Indirect Credit Extensions).

“**Non-Formula Period**” is, on and after the Effective Date and after the initial Credit Extension, provided no Event of Default has occurred and is continuing, any period of time (a) commencing on the first (1st) day of any month during which Borrower provides to Bank a written report pursuant to Section 6.2(e) hereof and other financial statements evidencing that Borrower has maintained Cash and Excess Availability of at least Forty Million Dollars (\$40,000,000.00) at all times during the prior two (2) consecutive calendar months, and (b) terminating on the earlier to occur of (i) the occurrence of an Event of Default, and (ii) the first (1st) day thereafter on which Borrower fails to maintain Cash and Excess Availability of at least Forty Million Dollars (\$40,000,000.00), as determined by Bank in its sole discretion. Upon the termination of a Non-Formula Period, Borrower must maintain Cash and Excess Availability of at least Forty Million Dollars (\$40,000,000.00) for two (2) consecutive calendar months thereafter before a new Non-Formula Period may begin.

“**Obligations**” are Borrower’s obligations to pay when due any debts, principal, interest, fees, Bank Expenses, the Anniversary Fees, the Unused Revolving Line Facility Fee, and other amounts Borrower owes Bank now or later, whether under this Agreement, the other Loan Documents, or otherwise, including, without limitation, all obligations relating to Bank Services and interest accruing after Insolvency Proceedings begin and debts, liabilities, or obligations of Borrower assigned to Bank, and to perform Borrower’s duties under the Loan Documents.

“**Off-Streamline Period**” is, on and after the Effective Date, any period of time during which Borrower maintains Cash and Excess Availability of less than Thirty Million Dollars (\$30,000,000.00).

“**Operating Documents**” are, for any Person, such Person’s formation documents, as certified by the Secretary of State (or equivalent agency) of such Person’s jurisdiction of organization on a date that is no earlier than thirty (30) days prior to the Effective Date, and, (a) if such Person is a corporation, its bylaws in current form, (b) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), each of the foregoing with all current amendments or modifications thereto.

“**Overadvance**” is defined in Section 2.2.

“**Patents**” means all patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same.

“**Payment Date**” is the last calendar day of each month.

“**Perfection Certificate**” is defined in Section 5.1.

“**Permitted Accounts**” is defined in Section 6.8(a).

“**Permitted Acquisition**” is any Acquisition by Borrower, provided that each of the following shall be applicable to any such Acquisition:

- (a) no Default or Event of Default shall have occurred and be continuing or would result from the consummation of the proposed Acquisition;
- (b) the entity or assets acquired in such Acquisition are in the same or similar line of business as Borrower is in as of the date hereof or reasonably related thereto;
- (c) Borrower shall remain a surviving entity after giving effect to such Acquisition, or, in Bank’s sole and absolute discretion, if a Borrower does not remain a surviving entity after giving effect to such Acquisition, such surviving entity shall become a party to this Agreement and shall assume the Obligations of such Borrower under this Agreement;
- (d) the total cash and non-cash consideration payable for all such Acquisitions may not exceed Five Million Dollars (\$5,000,000.00) in the aggregate per fiscal year, which amount shall not include any Capital Expenditures;

- (e) such Acquisition is non-hostile and has been approved by the respective boards of directors of all parties involved;
- (f) such Acquisition and the Person being acquired are accretive in all respects;
- (g) the Person or assets acquired in such Acquisition shall not be subject to any Lien other than Permitted Liens;
- (h) Borrower shall not incur any Indebtedness (other than Credit Extensions under this Agreement or Indebtedness permitted pursuant to clauses (d) and (f) of the definition of “Permitted Indebtedness” hereunder) in connection with such Acquisition; and
- (i) Borrower shall have provided Bank with evidence acceptable to Bank in Bank’s sole and absolute discretion that (i) immediately prior to such Acquisition, Borrower is eligible for a Non-Formula Period, and (ii) on a pro forma basis, immediately after giving effect to such Acquisition, Borrower will be eligible for a Non-Formula Period.

Notwithstanding anything to the contrary contained herein, and in addition to the foregoing, in order for any Acquisition to constitute a “Permitted Acquisition”, Borrower must provide Bank with thirty (30) days advance written notice of such Acquisition and deliver to Bank copies of all of the following no later than fifteen (15) days prior to consummation of such Acquisition:

- (i) historical financial statements for the Person which is the subject of such Acquisition in a form acceptable to Bank;
- (ii) a written explanation of the strategic fit with Borrower’s business for such Acquisition;
- (iii) the terms and conditions of such Acquisition; and
- (iv) a pro forma consolidated financial forecast of Borrower after giving effect to such Permitted Acquisition in form and substance acceptable to Bank.

“ **Permitted Indebtedness** ” is:

- (a) Borrower’s Indebtedness to Bank under this Agreement and the other Loan Documents;
- (b) Indebtedness existing on the Effective Date which is shown on the Perfection Certificate;
- (c) Subordinated Debt;
- (d) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;
- (e) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;
- (f) Indebtedness secured by Liens permitted under clauses (a) and (c) of the definition of “Permitted Liens” hereunder;
- (g) Indebtedness owed by a Subsidiary to either Borrower or to another Subsidiary;
- (h) Indebtedness of Borrower pursuant to the ESI Leasing Guaranty in an amount not to exceed Fourteen Million Dollars (\$14,000,000.00) in the aggregate;
- (i) Indebtedness of ESI Leasing, LLC pursuant to the First Tech Loan Agreement in an amount not to exceed Fourteen Million Dollars (\$14,000,000.00) in the aggregate; and
- (j) extensions, refinancings, modifications, amendments and restatements of any items of Permitted Indebtedness (a) through (i) above, provided that the principal amount thereof is not increased or the terms thereof are not modified to impose more burdensome terms upon Borrower or its Subsidiary, as the case may be.

“ **Permitted Investments** ” are:

- (a) Investments (including, without limitation, Subsidiaries) existing on the Effective Date which are shown on the Perfection Certificate;
- (b) Investments consisting of Cash Equivalents and any Investments permitted by Borrower’s Board-approved Investment Policy dated as of February 16, 2016 (as may be amended from time to time and promptly delivered to Bank following each such amendment); and
- (c) Permitted Acquisitions.

“ **Permitted Liens** ” are:

- (a) Liens existing on the Effective Date which are shown on the Perfection Certificate or arising under this Agreement and the other Loan Documents;
- (b) Liens for taxes, fees, assessments or other government charges or levies, either (i) not due and payable or (ii) being contested in good faith and for which Borrower maintains adequate reserves on its Books, provided that no notice of any such Lien has been filed or recorded under the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted thereunder;
- (c) purchase money Liens (i) on Equipment acquired or held by Borrower incurred for financing the acquisition of the Equipment securing no more than One Hundred Thousand Dollars (\$100,000.00) in the aggregate amount outstanding, or (ii) existing on Equipment when acquired, if the Lien is confined to the property and improvements and the proceeds of the Equipment;
- (d) Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens attach only to Inventory, securing liabilities in the aggregate amount not to exceed One Hundred Thousand Dollars (\$100,000.00) and which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;
- (e) Liens incurred in the extension, renewal or refinancing of the Indebtedness secured by Liens described in (a) through (d), but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness may not increase;
- (f) non-exclusive licenses of Intellectual Property granted to third parties in the ordinary course of business; and
- (g) Liens granted by ESI Leasing, LLC pursuant to the First Tech Loan Agreement or the First Tech Deed of Trust.

“ **Person** ” is any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

“ **Prime Rate** ” is the rate of interest per annum from time to time published in the money rates section of The Wall Street Journal or any successor publication thereto as the “prime rate” then in effect; provided that, in the event such rate of interest is less than zero, such rate shall be deemed to be zero for purposes of this Agreement; and provided further that if such rate of interest, as set forth from time to time in the money rates section of The Wall Street Journal, becomes unavailable for any reason as determined by Bank, the “Prime Rate” shall mean the rate of interest per annum announced by Bank as its prime rate in effect at its principal office in the State of California (such Bank announced Prime Rate not being intended to be the lowest rate of interest charged by Bank in connection with extensions of credit to debtors); provided that, in the event such rate of interest is less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“ **Prime Rate Margin** ” is (a) during any Non-Formula Period, zero percent (0.00%), and (b) during any other time, one half of one percent (0.50%).

“ **Prior Loan Agreement** ” is defined in Recital A of this Agreement.

“ **Proposed Future Transactions** ” is defined in Section 12.17.

“ **Quick Assets** ” is, on any date, the aggregate amount of Borrower’s consolidated, unrestricted cash and Cash Equivalents, plus net billed accounts receivable, determined according to GAAP.

“ **Real Property** ” means the real property owned by ESI Leasing, LLC with addresses of 13900 and 14000 NW Science Park Drive, Portland, Oregon 97229.

“ **Registered Organization** ” is any “registered organization” as defined in the Code with such additions to such term as may hereafter be made.

“ **Requirement of Law** ” is as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“ **Reserves** ” means, as of any date of determination, such amounts as Bank may from time to time establish and revise in its good faith business judgment, reducing the amount of Advances and other financial accommodations which would otherwise be available to Borrower (a) to reflect events, conditions, contingencies or risks which, as determined by Bank in its good faith business judgment, do or may adversely affect (i) the Collateral or any other property which is security for the Obligations or its value (including without limitation any increase in delinquencies of Accounts), (ii) the assets, business or prospects of Borrower or any Guarantor, or (iii) the security interests and other rights of Bank in the Collateral (including the enforceability, perfection and priority thereof); or (b) to reflect Bank's reasonable belief that any collateral report or financial information furnished by or on behalf of Borrower or any Guarantor to Bank is or may have been incomplete, inaccurate or misleading in any material respect; or (c) in respect of any state of facts which Bank determines constitutes an Event of Default or may, with notice or passage of time or both, constitute an Event of Default.

“ **Responsible Officer** ” is any of the Chief Executive Officer, President, Chief Financial Officer and Corporate Controller of Borrower.

“ **Restricted License** ” is any material license or other agreement with respect to which Borrower is the licensee (a) that prohibits or otherwise restricts Borrower from granting a security interest in Borrower’s interest in such license or agreement or any other property, or (b) for which a default under or termination of could interfere with Bank’s right to sell any Collateral.

“ **Revolving Line** ” is an aggregate principal amount equal to Thirty Million Dollars (\$30,000,000.00).

“ **Revolving Line Maturity Date** ” is March 20, 2019.

“ **SEC** ” shall mean the Securities and Exchange Commission, any successor thereto, and any analogous Governmental Authority.

“ **Securities Account** ” is any “securities account” as defined in the Code with such additions to such term as may hereafter be made.

“ **Stock Pledge Agreement** ” is, collectively (a) that certain Stock Pledge Agreement dated as of March 20, 2015, executed by Borrower in favor of Bank, (b) that certain Stock Pledge Agreement dated as of March 20, 2015, executed by ESI International Corporation in favor of Bank, and (c) that certain Stock Pledge Agreement dated as of March 20, 2015, executed by ESI China, Inc. in favor of Bank.

“ **Streamline Period** ” is, on and after the Effective Date, provided no Event of Default has occurred and is continuing, any period of time (a) commencing on the first day of any month during which Borrower provides to Bank a written report pursuant to Section 6.2(e) hereof stating that Borrower has maintained Cash and Excess Availability of at least Thirty Million Dollars (\$30,000,000.00), but less than Forty Million Dollars (\$40,000,000.00), at all times during the prior two (2) consecutive calendar months, and (b) terminating on the earliest to occur of (i) the occurrence of an Event of Default, (ii) the first day thereafter on which Borrower fails to maintain Cash and Excess Availability

of at least Thirty Million Dollars (\$30,000,000.00), as determined by Bank in its sole discretion, and (iii) the first day of any month during which Borrower provides to Bank a written report pursuant to Section 6.2(e) hereof stating that Borrower has maintained Cash and Excess Availability of at least Forty Million Dollars (\$40,000,000.00) at all times during the prior two (2) consecutive calendar months. Upon the termination of a Streamline Period, Borrower must maintain Cash and Excess Availability of at least Thirty Million Dollars (\$30,000,000.00), but less than Forty Million Dollars (\$40,000,000.00), for two (2) consecutive calendar months thereafter before a new Streamline Period begins.

“ **Subordinated Debt** ” is indebtedness incurred by Borrower subordinated to all of Borrower’s now or hereafter indebtedness to Bank (pursuant to a subordination, intercreditor, or other similar agreement in form and substance satisfactory to Bank entered into between Bank and the other creditor), on terms acceptable to Bank.

“ **Subsidiary** ” is, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless the context otherwise requires, each reference to a Subsidiary herein shall be a reference to a Subsidiary of Borrower.

“ **Total Liabilities** ” is on any day, obligations that should, under GAAP, be classified as liabilities on Borrower’s consolidated balance sheet, including all Indebtedness.

“ **Trademarks** ” means any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks.

“ **Transfer** ” is defined in Section 7.1.

“ **Transition Date** ” is defined in Section 6.8(a).

“ **Unused Revolving Line Facility Fee** ” is defined in Section 2.4(d).

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

BORROWER:

ELECTRO SCIENTIFIC INDUSTRIES, INC.

By: ___
Name: ___
Title: ___

BANK:

SILICON VALLEY BANK

By: ___
Name: ___
Title: ___

Signature Page to Amended and Restated Loan and Security Agreement

EXHIBIT A – COLLATERAL DESCRIPTION

The Collateral consists of all of Borrower's right, title and interest in and to the following personal property:

All goods, Accounts (including health-care receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles (except as provided below), commercial tort claims, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts, certificates of deposit, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and

all Borrower's Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

Notwithstanding the foregoing, the Collateral does not include (a) more than sixty-five percent (65.0%) of the presently existing and hereafter arising issued and outstanding shares of capital stock owned by Borrower of any Foreign Subsidiary which shares entitle the holder thereof to vote for directors or any other matter, or (b) any Intellectual Property; provided, however, the Collateral shall include all Accounts and all proceeds of Intellectual Property. If a judicial authority (including a U.S. Bankruptcy Court) would hold that a security interest in the underlying Intellectual Property is necessary to have a security interest in such Accounts and such property that are proceeds of Intellectual Property, then the Collateral shall automatically, and effective as of the Effective Date, include the Intellectual Property to the extent necessary to permit perfection of Bank's security interest in such Accounts and such other property of Borrower that are proceeds of the Intellectual Property.

Pursuant to the terms of a certain negative pledge arrangement with Bank, Borrower has agreed not to encumber any of its Intellectual Property without Bank's prior written consent.

EXHIBIT B

COMPLIANCE CERTIFICATE

TO: SILICON VALLEY BANK Date: _____
FROM: ELECTRO SCIENTIFIC INDUSTRIES, INC.

The undersigned authorized officer of Electro Scientific Industries, Inc. ("Borrower") certifies that under the terms and conditions of the Amended and Restated Loan and Security Agreement between Borrower and Bank (the "Agreement"):

(1) Borrower is in complete compliance for the period ending _____ with all required covenants except as noted below; (2) there are no Events of Default; (3) all representations and warranties in the Agreement are true and correct in all material respects on this date except as noted below; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; (4) Borrower, and each of its Subsidiaries, has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except as otherwise permitted pursuant to the terms of Section 5.9 of the Agreement; and (5) no Liens have been levied or claims made against Borrower or any of its Subsidiaries relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Bank.

Attached are the required documents supporting the certification. The undersigned certifies that these are prepared in accordance with GAAP consistently applied from one period to the next except as explained in an accompanying letter or footnotes. The undersigned acknowledges that no borrowings may be requested at any time or date of determination that Borrower is not in compliance with any of the terms of the Agreement, and that compliance is determined not just at the date this certificate is delivered. Capitalized terms used but not otherwise defined herein shall have the meanings given them in the Agreement.

Please indicate compliance status by circling Yes/No under "Complies" column.

<u>Reporting Covenants</u>	<u>Required</u>	<u>Complies</u>
Borrowing Base Reports	(i) With each with each request for an Advance, (ii) Monthly within 30 days, and (iii) weekly (no later than Friday) during any Off-Streamline Period that is not a Non-Borrowing Period	Yes No
A/R & A/P Agings, Deferred Revenue report, general ledger and a detailed Account Debtor listing	Monthly within 30 days	Yes No
Interim financial statements (consolidated)	Monthly within 30 days	Yes No
Compliance Certificate	Monthly within 30 days	Yes No
Cash and Excess Availability report	Monthly within 30 days	Yes No
Board-approved annual operating budgets and financial projections	FYE within 60 days and contemporaneously with any updates or changes thereto	Yes No
10-Q, 10-K and 8-K	Within 5 days after filing with SEC	Yes No
Annual financial statements (CPA Audited)	Within 5 days after filing Form 10-K with SEC	Yes No

Financial Covenant	Required	Actual	Complies
Maintain at all times:			
Maximum Capital Expenditures	≤ \$8 million	\$ _____	Yes No
Adjusted Quick Ratio	1.25:1.00	_____:1.00	Yes No
Adjusted EBITDA	*	\$ _____	Yes No

* As set forth in Section 6.9(c) of the Agreement.

Non-Formula and Streamline Period Eligibility			
Period	Required	Actual	Eligible
Non-Formula Period	Cash and Excess Availability of at least \$40,000,000 during the prior 2 consecutive calendar months	\$ ____	Yes No
Streamline Period	Cash and Excess Availability of at least \$30,000,000 but less than \$40,000,000 during the prior 2 consecutive calendar months	\$ ____	Yes No
Off-Streamline Period	Cash and Excess Availability of less than \$30,000,000 during the prior 2 consecutive calendar months	\$ ____	Yes No

The following financial covenant analyses and information set forth in Schedule 1 attached hereto are true and accurate as of the date of this Certificate.

Other Matters

Have there been any amendments of or other changes to the capitalization table of Borrower and to the Operating Documents of Borrower or any of its Subsidiaries? If yes, provide copies of any such amendments or changes with this Compliance Certificate. Yes No

Borrower and its Domestic Subsidiaries only have U.S. accounts located at the following institutions: ____

—
—

Aggregate balance in accounts of Borrower and its Domestic Subsidiaries (other than ESI Leasing, LLC) maintained at banks or financial institutions other than Bank and Bank’s Affiliates which are not subject to a Control Agreement:

Account Owner	Account	Balance
	_____	_____
	_____	_____
	_____	_____

TOTAL \$ _____
(pursuant to Section 6.8(a) of the Loan Agreement, such amount shall not exceed \$500,000)

Aggregate balance in investment account maintained with T. Rowe Price: \$ _____

Aggregate balance in ESI Leasing, LLC’s payment reserve account maintained with First Technology Federal Credit Union: \$ _____ (pursuant to Section 6.8(a) of the Loan Agreement, such amount shall not exceed \$1,100,000)

Aggregate balance in accounts (other than the First Tech Account) of ESI Leasing, LLC maintained at all financial institutions (including, without limitation, Bank and Bank’s Affiliates):

Account Balance

____ ____
____ ____

TOTAL \$ ____
(pursuant to Section 6.8(a) of the Loan Agreement, such amount shall not exceed \$600,000)

The following are the exceptions with respect to the certification above: (If no exceptions exist, state "No exceptions to note.")

—
—
—
—

ELECTRO SCIENTIFIC INDUSTRIES, INC. By: __ Name: __ Title: __	BANK USE ONLY Received by: __ AUTHORIZED SIGNER Date: __ Verified: __ AUTHORIZED SIGNER Date: __ Compliance Status: Yes No
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Schedule 1 to Compliance Certificate

Financial Covenants of Borrower

In the event of a conflict between this Schedule and the Loan Agreement, the terms of the Loan Agreement shall govern.

Dated: _____

I. Maximum Capital Expenditures (Section 6.9(a))

Required: Borrower shall not contract for, purchase or make any expenditures or commitments for Capital Expenditures in an aggregate amount in excess of Eight Million Dollars (\$8,000,000.00) in any fiscal year. For the avoidance of doubt, Borrower's right to make Capital Expenditures is separate and apart from Borrower's right to make Permitted Acquisitions or the application of casualty proceeds pursuant to Section 6.7(b)

Actual aggregate Capital Expenditures of Borrower during the current fiscal year: \$ _____

Is the amount above less than or equal \$8,000,000?

No, not in compliance ___ Yes, in compliance

II. Adjusted Quick Ratio (Section 6.9(b))

Required: Borrower shall maintain a ratio of (a) Quick Assets to (b) (i) Current Liabilities minus (ii) the current portion of Deferred Revenue, of at least 1.25 to 1.00.

Actual:

A.	Aggregate amount of Borrower's consolidated, unrestricted cash and Cash Equivalents	\$
B.	Aggregate value of the net billed accounts receivable of Borrower	\$
C.	Quick Assets (the sum of lines A through B)	\$
D.	Aggregate value of all obligations and liabilities of Borrower to Bank	\$
E.	Aggregate value of liabilities that should, under GAAP, be classified as liabilities on Borrower's consolidated balance sheet, including all Indebtedness not otherwise reflected in line D above, that matures within one (1) year	\$
F.	Current Liabilities (the sum of lines D and E)	\$
G.	Current portion of Deferred Revenue	\$
H.	Line F minus Line G	\$
I.	Adjusted Quick Ratio (line C divided by line H)	

Is line I greater than or equal to 1.25 : 1.00?

No, not in compliance

___ Yes, in compliance

III. Adjusted EBITDA (Section 6.9(c))

Required: Borrower shall maintain Adjusted EBITDA for the trailing twelve (12) month period then-ended, of not less than the following (amounts in parentheses indicate negative numbers):

Reporting Date	Adjusted EBITDA
12/31/16	(\$12,500,000)
1/31/17	(\$19,500,000)
2/28/17	(\$19,500,000)
3/31/17	(\$17,500,000)
4/30/17	(\$22,000,000)
5/31/17	(\$22,000,000)
6/30/17	(\$20,000,000)
7/31/17	(\$17,000,000)
8/31/17	(\$17,000,000)
9/30/17	(\$15,000,000)
10/31/17	(\$14,500,000)
11/30/17	(\$14,500,000)
12/31/17	(\$12,500,000)
1/31/18	(\$12,000,000)
2/28/18	(\$12,000,000)
3/31/18	(\$10,000,000)
4/30/18	(\$9,500,000)
5/31/18	(\$9,500,000)
6/30/18	(\$7,500,000)
7/31/18	(\$7,000,000)
8/31/18	(\$7,000,000)
9/30/18	(\$5,000,000)
10/31/18	(\$4,500,000)
11/30/18	(\$4,500,000)
12/31/18	(\$2,500,000)
1/31/19	(\$2,000,000)
2/28/19	(\$2,000,000)
3/31/19	\$0.00

Actual:

A.	Net Income	\$
B.	Interest Expenses	\$
C.	Depreciation expense	\$
D.	Amortization expense	\$
E.	Income tax expense	\$
F.	Non-cash stock compensation	\$
G.	One-time, non-cash charges approved by Bank in writing in its sole but reasonable discretion	\$
H.	One-time, cash charges in an aggregate amount not to exceed Five Million Dollars (\$5,000,000.00) for restructuring costs incurred during Borrower's fiscal year ending March 31, 2018	\$
I.	One-time, non-cash charges for restructuring costs incurred during Borrower's fiscal year ending March 31, 2018	\$
J.	Sum of lines A through I	\$
K.	Cash payments related to the non-cash charges referenced in Line I	\$
L.	Line J minus Line K	\$

Is line L a greater than the required amount set forth above?

No, not in compliance Yes, in compliance

EXHIBIT C

Career Technology (MFG) Co. Ltd.

EXHIBIT D

Borrowing Base Report

[To be provided by Bank]