

# SANMINA-SCI CORP

## FORM 10-K (Annual Report)

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

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**Form 10-K**

(Mark  
One)

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

For the fiscal year ended September 27, 2008

or

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

For the transition period from                      to

Commission file number: 0-21272

**Sanmina-SCI Corporation**

(Exact name of registrant as specified in its charter)

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

**77-0228183**  
(I.R.S. Employer  
Identification Number)

**2700 North First Street, San Jose, CA**  
(Address of principal executive offices)

**95134**  
(Zip Code)

Registrant's telephone number, including area code:  
**(408) 964-3500**

Securities registered pursuant to Section 12(b) of the Act:  
**None**

Securities registered pursuant to Section 12(g) of the Act:  
**Common Stock, \$0.01 Par Value**  
(Title of Class)

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

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

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

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

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

Large accelerated filer ☒

Accelerated filer ☐

Non-accelerated filer ☐

Smaller reporting company ☐

(Do not check if a smaller reporting company)

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

The aggregate value of Common Stock held by non-affiliates of the Registrant was approximately \$199,184,436 as of November 14, 2008 based upon the average of Registrant's Common Stock reported for such date on the NASDAQ National Market. Shares of Common Stock held by each executive officer and director and by each entity who owns 5% or more of the outstanding Common Stock have been excluded in that such persons may be deemed to be affiliates. The determination of affiliate status is not necessarily a conclusive determination for other purposes. As of November 14, 2008, the Registrant had outstanding 531,206,988 shares of Common Stock.

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#### **DOCUMENTS INCORPORATED BY REFERENCE**

Certain information is incorporated into Part III of this report by reference to the Proxy Statement for the Registrant's annual meeting of stockholders to be held on January 26, 2009 to be filed with the Securities and Exchange Commission pursuant to Regulation 14A not later than 120 days after the end of the fiscal year covered by this Form 10-K.

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# SANMINA-SCI CORPORATION

## INDEX

### PART I

Item 1.	Business	2
Item 1A.	Risk Factors Affecting Operating Results	18
Item 1B.	Unresolved Staff Comments	30
Item 2.	Properties	30
Item 3.	Legal Proceedings	32
Item 4.	Submission of Matters to a Vote of Security Holders	33

### PART II

Item 5.	Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities	35
Item 6.	Selected Financial Data	36
Item 7.	Management's Discussion and Analysis of Financial Condition and Results of Operations	38
Item 7A.	Quantitative and Qualitative Disclosures About Market Risk	57
Item 8.	Financial Statements and Supplementary Data	59
Item 9.	Changes in and Disagreements With Accountants on Accounting and Financial Disclosure	59
Item 9A.	Controls and Procedures	59
Item 9B.	Other Information	60

### PART III

Item 10.	Directors and Executive Officers of the Registrant	60
Item 11.	Executive Compensation	60
Item 12.	Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters	60
Item 13.	Certain Relationships and Related Transactions	60
Item 14.	Principal Accountant Fees and Services	60

### PART IV

Item 15.	Exhibits and Financial Statement Schedule	61
Signatures		118

## PART I

### Item 1. *Business*

#### Overview

We are an independent global provider of customized, integrated electronics manufacturing services, or EMS. We provide these comprehensive services primarily to original equipment manufacturers, or OEMs, in the communications, enterprise computing and storage, multimedia, industrial and semiconductor capital equipment, defense and aerospace, medical and automotive industries. The combination of our advanced technologies, extensive manufacturing expertise and economies of scale enables us to meet the specialized needs of our customers in these markets in a cost-effective manner. We were originally incorporated in Delaware in May 1989 and operate as a single segment.

Our end-to-end services in combination with our global expertise in supply chain management enables us to manage our customers' products throughout their life cycles. These services include:

- product design and engineering, including initial development, detailed design, prototyping, validation, preproduction services and manufacturing design release;
- volume manufacturing of components, subassemblies and complete systems;
- final system assembly and test;
- direct order fulfillment and logistics services; and
- after-market product service and support.

Our high volume manufacturing services are vertically integrated, allowing us to manufacture key system components and subassemblies for our customers. By manufacturing key system components and subassemblies ourselves, we enhance continuity of supply and reduce costs for our customers. In addition, we are able to have greater control over the production of our customers' products. System components and subassemblies that we manufacture include high-end printed circuit boards, printed circuit board assemblies, backplanes and backplane assemblies, enclosures, cable assemblies, precision machine components, optical modules and memory modules.

We manufacture products in 18 countries on five continents. We seek to locate our facilities near our customers and our customers' end markets in major centers for the electronics industry or in lower cost locations. Many of our plants located near customers and their end markets are focused primarily on final system assembly and test, while our plants located in lower cost areas engage primarily in high volume, less complex component and subsystem manufacturing and assembly.

We have become one of the largest global EMS providers by capitalizing on our competitive strengths including our:

- end-to-end services;
- product design and engineering resources;
- vertically integrated manufacturing services;
- advanced technologies;
- global capabilities;
- customer-focused organization;
- expertise in serving diverse end markets; and
- experienced management team.

## Industry Overview

EMS companies are the principal beneficiaries of the increased use of outsourced manufacturing services by the electronics and other industries. Outsourced manufacturing refers to an OEM's use of EMS companies, rather than internal manufacturing capabilities, to manufacture their products. Historically, EMS companies generally manufactured only components or partial assemblies. As the EMS industry has evolved, OEMs have increased their reliance on EMS companies for additional, more complex manufacturing services including design services. Some EMS companies now often manufacture and test complete systems and manage the entire supply chains of their customers. Industry leading EMS companies offer end-to-end services including product design and engineering, volume manufacturing, final system assembly and test, direct order fulfillment, after-market product service and support and global supply chain management.

We believe increased outsourced manufacturing by OEMs will continue because it allows OEMs to:

***Reduce Operating Costs and Capital Investment.*** In the current economic environment, OEMs are under significant pressure to reduce manufacturing costs and capital expenditures. EMS companies can provide OEMs with flexible, cost-efficient manufacturing services through their manufacturing expertise and more significant economies of scale. In addition, as OEM products have become more technologically advanced, the manufacturing and system test processes have become increasingly automated and complex, requiring significant capital investments. EMS companies enable OEMs to access technologically advanced manufacturing and test equipment and facilities without additional capital expenditures.

***Focus on Core Competencies.*** The electronics industry is highly competitive and subject to rapid technological change. As a result, OEMs increasingly are focusing their resources on activities and technologies in which they expect to add the greatest value. By offering comprehensive manufacturing services and supply chain management, EMS companies enable OEMs to focus on their core competencies including next generation product design and development as well as marketing and sales.

***Access Leading Design and Engineering Capabilities.*** The design and engineering of electronic products has become more complex and sophisticated and in an effort to become more competitive, OEMs are increasingly relying on EMS companies to provide product design and engineering support services. EMS companies' design and engineering services can provide OEMs with improvements in the performance, cost and time required to bring products to market. EMS companies are providing more sophisticated design and engineering services to OEMs, including the design and engineering of complete products following an OEM's development of a product concept.

***Improve Supply Chain Management and Purchasing Power.*** OEMs face challenges in planning, procuring and managing their inventories efficiently due to fluctuations in customer demand, product design changes, short product life cycles and component price fluctuations. EMS companies employ sophisticated production management systems to manage their procurement and manufacturing processes in an efficient and cost-effective manner so that, where possible, components arrive on a just-in-time, as-and-when needed basis. EMS companies are significant purchasers of electronic components and other raw materials and can capitalize on the economies of scale associated with their relationships with suppliers to negotiate price discounts, obtain components and other raw materials that are in short supply and return excess components. EMS companies' expertise in supply chain management and their relationships with suppliers across the supply chain enable them to help OEMs reduce their cost of goods sold and inventory exposure.

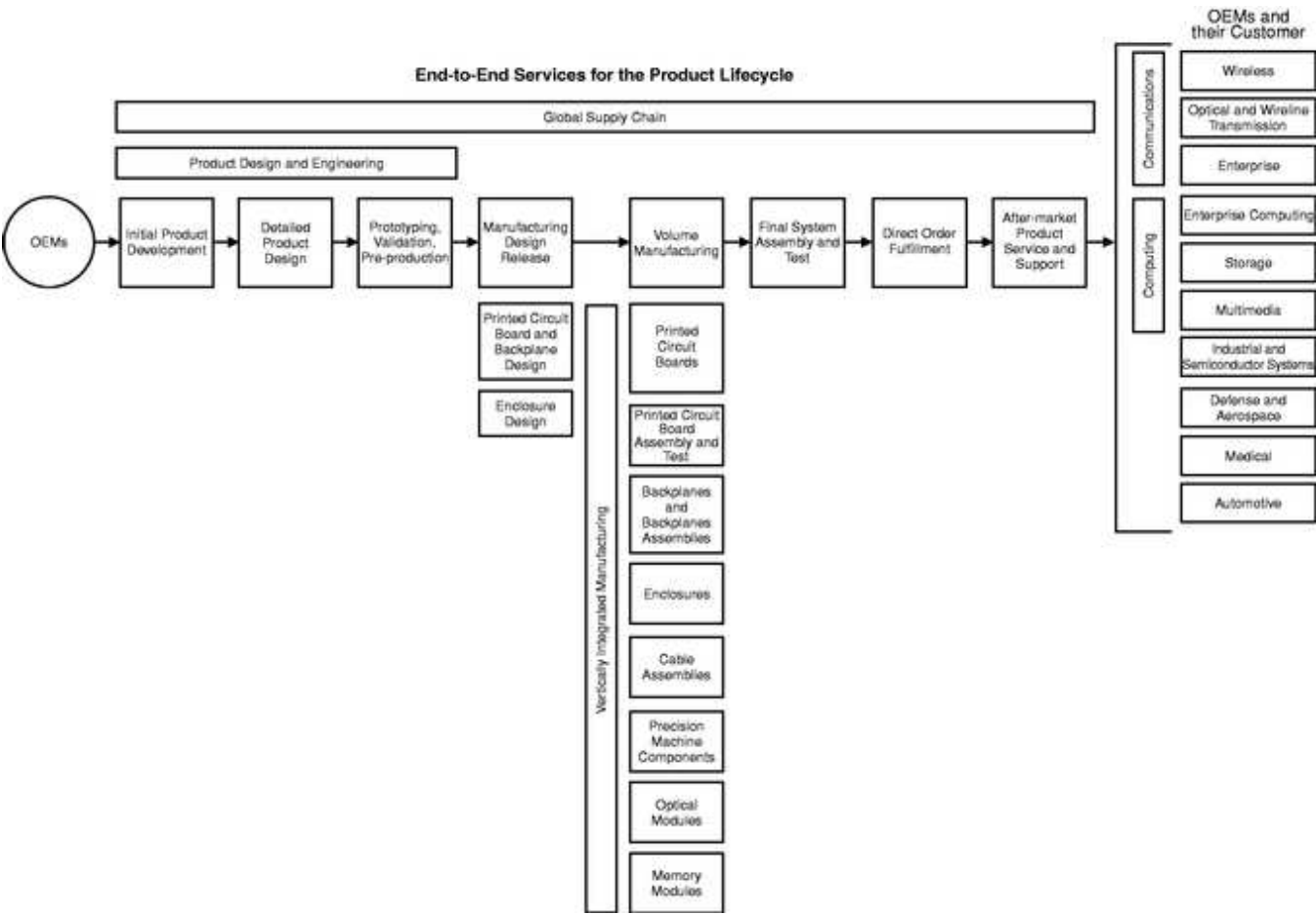
***Access Global Manufacturing Services.*** OEMs seek to reduce their manufacturing costs by having EMS companies manufacture their products in the lowest cost locations that are appropriate for their products and end customers. OEMs also are increasingly requiring particular products to be

manufactured simultaneously in multiple locations, often near end users, to bring products to market more quickly, reduce shipping and logistics costs and to meet local product content requirements. Global EMS companies are able to satisfy these requirements by capitalizing on their geographically dispersed manufacturing facilities, including those in lower cost regions.

**Accelerate Time to Market.** OEMs face increasingly short product life cycles due to increased competition and rapid technological changes. As a result, OEMs need to reduce the time required to bring their products to market. OEMs often can bring a product to market faster by using an EMS company's expertise in new product introduction including manufacturing design, engineering support and prototype production. OEMs often can more quickly achieve volume production of their products by capitalizing on an EMS company's manufacturing expertise, global presence and infrastructure.

Competitive Overview

We offer our OEM customers end-to-end services that span the entire product life cycle:



Competitive Strengths

We believe our competitive strengths differentiate us from our competitors and enable us to better serve the needs of OEMs. Our competitive strengths include:

**End-to-End Services.** We provide services throughout the world to support our customers' products during their entire life cycle, from product design and engineering, through volume manufacturing, to direct order fulfillment and after-market product service and support. We believe that our end-to-end services are more comprehensive than the services offered by our competitors because of our focus on adding value before and after the actual manufacturing of our customers' products. Our end-to-end

services enable us to provide our customers with a single source of supply for their EMS needs, reduce the time required to bring products to market, lower product costs and allow our customers to focus on those activities in which they expect to add the highest value. We believe that our end-to-end services allow us to develop closer relationships with our customers and more effectively compete for their future business.

***Product Design and Engineering Resources.*** We provide product design and engineering services for new product designs, cost reductions and design for manufacturability (DFx). Our engineers work with our customers during the complete product life cycle. Our design centers provide hardware, software, ECAD, verification, regulatory, and testing services. We design high speed digital, analog, radio frequency, wired, wireless, optical and electro-mechanical products.

Our engineering engagement models include Joint Design Manufacturing (JDM), Contract Design Manufacturing and consulting engineering for DFX, Value Engineering (cost reduction re-design), and design for environmental compliance with the European Union's Restrictions of Hazardous Substances, or RoHS, and Waste Electrical and Electronic Equipment or WEEE. We focus on industry segments to align with our technology focused markets. Industry segments include Communications, Enterprise Computing and Storage, Medical, Multimedia, Defense & Aerospace, Industrial & Semiconductor Capital Equipment, and Automotive. System solutions for these industry segments are supported through our vertically integrated component technologies, namely, printed circuit boards, backplanes, enclosures, cable assemblies, precision machined components, memory modules and optical modules.

In the JDM model, our customers bring market knowledge and product requirements. We offer complete design engineering and new product introductions or NPI services. For JDM products, typically the intellectual property is jointly owned by us and the customer and we realize manufacturing revenue associated with building and shipping the product.

***Vertically Integrated Volume Manufacturing Services.*** We provide a range of vertically integrated volume manufacturing services. Key system components that we manufacture include complete printed circuit boards and printed circuit board assemblies, backplanes and backplane assemblies, enclosures, cable assemblies, precision machine components, optical modules and memory modules. By manufacturing these system components and subassemblies ourselves, we enhance continuity of supply and reduce costs for our customers. In addition, we are able to have greater control over the production of our customers' products and retain incremental profit opportunities for us. Examples of products that we manufacture using our full range of services include wireless base stations, network switches, routers and gateways, optical switches, enterprise-class servers and storage appliances, set-top boxes, medical devices, and equipment used in the semiconductor chip manufacturing process, including equipment for photolithography, chemical mechanical polishing, physical vapor deposition, automated handling tools and robotics for wafer transfer.

***Advanced Technologies.*** We provide services utilizing advanced technologies which we believe allows us to differentiate ourselves from our competitors. These advanced technologies include the fabrication of complex printed circuit boards and backplanes having over 60 layers and process capabilities for a range of low signal loss, high performance materials, buried capacitors and resistors and high density interconnects using micro via holes that are formed using laser drills. Our printed circuit board assembly technologies include micro ball grid arrays, fine pitch discretes and small form factor radio frequency and optical components, as well as advanced packaging technologies used in high pin count application specific integrated circuits and network processors. We use innovative design solutions and advanced metal forming techniques to develop and fabricate high-performance indoor and outdoor chassis, enclosures and frames. Our assembly services use advanced technologies including precision optical alignment, multi-axis precision stages and machine vision technologies. We use sophisticated procurement and production management tools to effectively manage inventories for our customers and ourselves. We have also developed build-to-order, or BTO and configure-to-order, or



CTO systems that enable us to manufacture and ship finished systems within 48 to 72 hours after receipt of an order. To coordinate the development and introduction of new technologies to meet our customers' needs in various locations and to increase collaboration among our facilities, we have established a centralized EMS technology council.

***Global Capabilities.*** Most of our customers compete and sell their products on a global basis. As such, they require global solutions that include regional manufacturing for selected end markets, especially when time to market, local manufacturing or content and low cost solutions are critical objectives. Our global network of facilities in 18 countries provides our customers a combination of sites to maximize both the benefits of regional and low cost manufacturing. To manage and coordinate our global operations, we employ an enterprise-wide software system that operates on a single IT platform and provides us with company-wide information regarding component inventories and orders. This system enables us to standardize planning and purchasing at the plant level and to optimize inventory management and utilization. Our systems also enable our customers to receive key information regarding the status of individual programs.

***Customer-Focused Organization.*** We believe customer relationships are critical to our success and our organization is focused on providing our customers with responsive services. Our key customer accounts are managed by dedicated account teams including a global business manager directly responsible for account management. Global business managers coordinate activities across divisions to effectively satisfy our customers' requirements and have direct access to our senior management to quickly address customer concerns. Local customer account teams further support the global teams and are linked by a comprehensive communications and information management infrastructure.

***Expertise in Serving Diverse End Markets.*** We have experience in serving our customers in the communications, enterprise computing and storage, multimedia, industrial and semiconductor capital equipment, defense and aerospace, medical and automotive markets. Our diversification across end markets reduces our dependence upon any one customer or segment. In order to cater to the specialized needs of customers in particular market segments, we have dedicated personnel, and in some cases facilities, with industry-specific capabilities and expertise. We also maintain compliance with industry standards and regulatory requirements applicable to certain markets including, among others, the medical and defense and aerospace sectors.

***Experienced Management Team.*** We believe that one of our principal assets is our experienced management team. Our chief executive officer, Jure Sola, co-founded Sanmina in 1980. Hari Pillai, President and Chief Operating Officer, joined our Company in 1994 and has served in various senior manufacturing management positions since that time. We believe that the significant experience of our management team enables us to capitalize on opportunities in the current business environment.

## **Our Business Strategy**

Our objective is to maintain and enhance our leadership position in the EMS industry. Key elements of our strategy include:

***Capitalizing on Our Comprehensive Services.*** We intend to capitalize on our end-to-end services which we believe will allow us to both sell additional services to our existing customers and attract new customers. Our end-to-end services include product design and engineering, volume manufacturing, final system assembly and test, direct order fulfillment, after-market product service and support and supply chain management. Our vertically integrated volume manufacturing services enable us to manufacture additional system components and subassemblies for our customers. When we provide a customer with a number of services, such as component manufacturing or higher value-added services, we are often able to improve our margins and profitability. Consequently, our goal is to increase the

number of manufacturing programs for which we provide multiple services. To achieve this goal, our sales and marketing organization seeks to cross-sell our services to customers.

***Extending Our Technology Capabilities.*** We rely on advanced processes and technologies to provide our vertically integrated volume manufacturing services. We continually strive to improve our manufacturing processes and have adopted a number of quality improvement and measurement techniques to monitor our performance. We work with our customers to anticipate their future manufacturing requirements and align our technology investment activities to meet their needs. We use our design expertise to develop product technology platforms that we can customize by incorporating other components and subassemblies to meet the needs of particular OEMs. These technologies enhance our ability to manufacture complex, high-value added products, allowing us to continue to win business from existing and new customers.

***Joint Design Manufacturing Solutions.*** As a result of customer feedback, and our customers' desire to manage research and development expenses, we have expanded our product design services to develop systems and components jointly with our customers. In a JDM model, our customers bring market knowledge and product requirements. We offer complete design engineering and NPI services. Our offerings in design engineering include product architecture, development, integration, regulatory and qualification services; while NPI services include quick-turn prototyping, supply chain readiness, functional test development and release to volume production. For JDM products, typically the intellectual property is jointly owned by us and the customer and we realize manufacturing revenue associated with building and shipping the product.

***Continuing to Penetrate Diverse End Markets.*** We focus our marketing efforts on major end markets within the electronics industry. We have targeted markets that we believe offer significant growth opportunities and for which OEMs sell complex products that are subject to rapid technological change because the manufacturing of these products requires higher value-added services. Our approach to our target markets is two-fold: we intend to strengthen our significant presence in the communications and enterprise computing markets, and also focus on under-penetrated target markets, including the medical, industrial and semiconductor capital equipment, automotive, and defense and aerospace industries, many of which have not extensively relied upon EMS companies in the past. We intend to continue our diversification across market segments and customers to reduce our dependence on any particular market.

***Pursuing Strategic Transactions.*** We seek to undertake strategic transactions that give us the opportunity to access new customers, manufacturing and service capabilities, technologies and geographic markets, to lower our manufacturing costs and improve margins, and to further develop existing customer relationships. In addition, we will continue to pursue OEM divestiture transactions that will augment existing strategic customer relationships with favorable supply agreement terms or build new relationships with customers in attractive end markets. Potential future transactions may include a variety of different business arrangements, including acquisitions, spin-offs, strategic partnerships, joint ventures, restructurings, divestitures, business combinations and equity or debt investments. We intend to continue to evaluate and pursue strategic opportunities on a highly selective basis.

***Continuing to Seek Cost Savings and Efficiency Improvements.*** We seek to optimize our facilities to provide cost-efficient services for our customers. We maintain extensive operations in lower cost locations, including Latin America, Eastern Europe, China, Southeast Asia and India, and we plan to expand our presence in these lower cost locations as appropriate, to meet the needs of our customers. We believe that we are well positioned to take advantage of future opportunities on a global basis as a result of our vertically integrated volume manufacturing strategy.

## Our Products and Services

We offer our OEM customers end-to-end services that span the entire product life cycle. Examples of products that we manufacture for OEMs include wireless and wireline communications equipment, high-end computer servers and storage devices, avionics, medical imaging and diagnostic systems and digital satellite set-top boxes. These products may require us to use some or all of our end-to-end services.

***Product Design and Engineering.*** Our design and engineering groups provide customers with design and engineering services from initial product design and detailed product development to production. This group also complements our vertically integrated volume manufacturing capabilities by providing manufacturing design services for the manufacture of printed circuit boards, backplanes and enclosures. Our offerings in design engineering include product architecture, development, integration, regulatory and qualification services; while NPI services include quick-turn prototype, functional test development and release to volume production.

We provide initial product development and detailed product design and engineering services for products such as communications base stations, optical switches and modules, network switches and routers, computer server and storage products and medical devices. We follow a well defined product life cycle process during our design and development as follows:

***Initial Product Development.*** We provide a range of design and engineering services to customers to complement their initial product development efforts. During this phase, our design engineers work with our customers' product development teams to assist with product concepts, selecting key components, cost trade-offs and design reviews.

***Detailed Product Design.*** During the detailed product development phase, we work with our customers' product development engineers to optimize product designs to improve the efficiency of the volume manufacturing (Design for Manufacturability or DFM) of these products and reduce manufacturing costs. We further analyze product design to improve the ability of tests (Design for Test or DFT) used in the manufacturing process to identify product defects and failures. We provide software development support for product development, including installing operating systems on hardware platforms, developing software drivers for electronic devices and developing diagnostic, production test and support software. We design components that are incorporated into our customers' products including printed circuit boards, backplanes, enclosures and cables assemblies.

***Pre-production.*** After a detailed product design has been completed and the product is released for prototype production, we can build a prototype on a quick turnaround basis. We then analyze the feasibility of manufacturing the product and make any necessary design modifications to the prototype and re-test the prototype to validate its design. We also provide early-stage test development during the prototype phase. We evaluate prototypes to determine if they will meet safety and other standards such as standards published by Underwriters Laboratories, an independent product safety testing and certification organization and other similar domestic and international organizations. We also typically provide low-volume manufacturing to satisfy our customers' initial needs. We review the material and component content of our customers' designs with a view to designing in alternative components that may provide cost savings. Our preproduction services help our customers reduce the time required to bring new products to market.

***Component Technology Design Services.*** We provide design and technology support for our vertically integrated system components and subassemblies, including:

***Printed Circuit Board and Backplane Design.*** We support our customers with printed circuit board and backplane design and development assistance for optimizing performance,

manufacturability and cost factors critical to overall system performance. These printed circuit boards and backplanes incorporate high layer counts and large form factors and are used in complex products such as optical networking products and communications switches. These designs also incorporate component miniaturization technologies and other advanced technologies that increase the number and density of components that can be placed on a printed circuit board. These technologies enable OEMs to provide greater functionality in smaller products. We also provide signal integrity engineering services which enable the transmission of high speed electrical signals through a system while maintaining signal quality and data integrity.

*Enclosure Design.* We have dedicated enclosure design groups in North America and China that design and engineer complex indoor and outdoor enclosures to meet customer specifications and regulatory requirements. In addition to addressing the structural, environmental, seismic, power distribution and interconnect (cabling) design requirements, our technical competencies also include the design of complex thermal management systems, which dissipate heat generated by the components within an enclosure. We design enclosures for both stackable and rack mount chassis configurations. In stackable configurations, component modules are stacked on top of each other, while in rack mount configurations, component modules slide into racks within the enclosure. Rack mount configurations are often used for complex communication and computing products, such as communications switches and servers that can be frequently upgraded in the field. Our design engineers work with a range of materials, including sheet metal, plastic and die-cast material. Our design experience covers a range of products including, indoor and outdoor wireless base station cabinets, enclosures for high-end servers and data storage systems, and enclosures for industrial and medical imaging systems.

**Volume Manufacturing.** Volume manufacturing includes our vertically integrated manufacturing services described in greater detail below.

*Printed Circuit Boards.* We have the ability to produce multilayer printed circuit boards on a global basis with high layer counts and fine line circuitry. Our ability to support NPI and quick turn fabrication followed by volume manufacturing in both North America and Asia allows our customers to accelerate their time to market as well as their time to volume. Standardized processes and procedures make transitioning of products easier for our customers. Our technology roadmaps provide leading edge capabilities and higher yielding processes. Engineering teams are available on a world-wide basis to support designers in DFM analysis and assemblers with field application support.

Printed circuit boards are made of fiberglass/resin laminated material layers and contain copper circuits which interconnect and transmit electrical signals among the components that make up electronic devices. Increasing the density of the circuitry in each layer is accomplished by reducing the width of the circuit tracks and placing them closer together in the printed circuit board along with adding layers and via hole structures. We are currently capable of efficiently producing printed circuit boards with up to 60 layers and circuit track widths as narrow as two mils (50 micron) in production volumes. Specialized production equipment along with an in-depth understanding of high performance laminate materials allow for fabrication of some of the largest form factor and highest speed (in excess of 10 gigabits per second, or Gbps) backplanes available in the industry. We have also developed several proprietary technologies and processes which improve electrical performance, connection densities and reliability of printed circuit boards. Some of these technologies, such as Buried Capacitance™, have become industry standards and are actively licensed to other board fabricators.

*Printed Circuit Board Assembly and Test.* Printed circuit board assembly involves attaching electronic components, such as integrated circuits, capacitors, microprocessors, resistors and memory modules to printed circuit boards. The most common technologies used to attach components to printed circuit boards employ surface mount technology, or SMT, and pin-through-hole assembly, or PTH. SMT involves the use of an automated assembly system to place and solder components to the printed circuit board. In PTH, components are placed on the printed circuit board by insertion into holes punched in the circuit board. Components also may be attached using press-fit technology in which components are pressed into connectors affixed to the printed circuit board. We use SMT, PTH, press-fit as well as new attachment technologies that are focused on miniaturization and increasing the density of component placement on printed circuit boards. These technologies, which support the needs of our OEM customers to provide greater functionality in smaller products, include chip-scale packaging, ball grid array, direct chip attach and high density interconnect. We perform in-circuit and functional testing of printed circuit board assemblies. In-circuit testing verifies that all components have been properly inserted and attached and that the electrical circuits are complete. We perform functional tests to confirm that the board or assembly operates in accordance with its final design and manufacturing specifications. We either design and procure test fixtures and develop our own test software, or we use our customers' test fixtures and test software. In addition, we provide environmental stress tests of the board or assembly that are designed to confirm that the board or assembly will meet the environmental stresses, such as heat, to which it will be subject.

*Backplanes and Backplane Assemblies.* Backplanes are very large printed circuit boards that serve as the backbones of sophisticated electronics products and provide interconnections for printed circuit boards, integrated circuits and other electronic components. We fabricate backplanes in our printed circuit board plants. Backplane fabrication is significantly more complex than printed circuit board fabrication due to the large size and thickness of the backplanes. We manufacture backplane assemblies by press fitting high density connectors into plated through holes in the bare backplane. In addition, many of the newer higher technology backplanes require SMT attachment of passive discrete components as well as high pin count ball grid array packages. These advanced assembly processes require specialized equipment and a strong focus on quality and process control. We also perform in-circuit and functional tests on backplane assemblies. We have developed proprietary technology and "know-how" which enables backplanes to run at data rates in excess of 10 Gbps. We currently have capabilities to manufacture backplanes with up to 60 layers in sizes up to 27.5x42 inches and 0.500 inches in thickness, utilizing a wide variety of high performance laminate materials. These are among the largest and most complex commercially manufactured backplanes and we are one of a limited number of manufacturers with these capabilities.

*Enclosures.* Enclosures are cabinets that house and protect complex and fragile electronic components, modules and subsystems. Our enclosure manufacturing services include fabrication of cabinets, chassis and racks integrated with various electronic components such as power and thermal management systems. We manufacture a broad range of enclosures with numerous materials including metal, plastics and die cast materials. We manufacture enclosures ranging from basic enclosures, such as enclosures for computer servers, to large and highly complex enclosures, such as those for indoor and outdoor communications base station products.

*Cable Assemblies.* Cable assemblies are used to connect modules, assemblies and subassemblies in electronic devices. We provide a broad range of cable assembly products and services. We design and manufacture a broad range of high-speed data, radio frequency and fiber optic cabling products. Cable assemblies that we manufacture are often used in large rack systems to interconnect subsystems and modules.

**Precision Machine Components.** We provide a broad range of manufacturing services for metals and plastics. With some of the largest horizontal milling machines in the United States, we are a supplier of vacuum chamber systems for the semiconductor and flat panel display equipment markets. We also support a number of other markets such as medical and oil and gas exploration. We are able to support both low volume engineering programs and high volume production. We utilize advanced computer numerically controlled machined tools enabling the manufacture of components to very tight tolerance standards.

**Optical Modules.** Optical modules are integrated subsystems that use a combination of industry standard and/or custom optical components. We are a provider of complete optical systems for customers in telecommunications, networking, and military markets. Our experience in optical communications and networking products spans long haul/ultra long haul and metro regions for transport, access and switching applications, including last mile solutions. Our service offerings for optical communications customers are designed to deliver end-to-end solutions with special focus on system design, optical module assembly, optical test and integration.

**Memory Modules.** Memory modules are integrated subsystems that use industry standard integrated circuits including processors, digital signal processors, non-volatile flash memory and dynamic random access memory, or DRAM. These modules consist of standard products that are sold for a wide range of applications to a broad base of customers and custom modules that are built and extensively tested for use in a particular OEM's product or system. We design and manufacture a variety of modular solutions, including standard and custom processor modules, flash memory modules and DRAM modules. In addition, we supply solutions to increase memory component density on printed circuit boards. We offer advanced NexMod memory modules that contain multiple RDRAM memory layers vertically stacked and mounted to a printed circuit board. NexMod solutions are tailored for high-end network infrastructure. We also provide innovative DDRI and DDRII DRAM modules utilizing stacked CSP technology, Ram-Stack™, offering high densities in ultra small form factors. We integrate both standard and custom modules in the products we manufacture.

**Final System Assembly and Test.** We provide final system assembly and test in which assemblies and modules are combined to form complete, finished products. We often integrate printed circuit board assemblies manufactured by us with enclosures, cables and memory modules that we also produce. Our final assembly activities also may involve integrating components and modules that others manufacture. The complex, finished products that we produce typically require extensive test protocols. Our test services include both functional and environmental tests. We also test products for conformity to applicable industry, product integrity and regulatory standards. Our test engineering expertise enables us to design functional test processes that assess critical performance elements including hardware, software and reliability. By incorporating rigorous test processes into the manufacturing process, we can help to assure our customers that their products will function as designed. Products for which we currently provide final system assembly and test include wireless base stations, wireline communications switches, optical networking products and high-end servers.

**Direct Order Fulfillment.** We provide direct order fulfillment for our OEM customers. Direct order fulfillment involves receiving customer orders, configuring products to quickly fill the orders and delivering the products either to the OEM, a distribution channel, such as a retail outlet, or directly to the end customer. We manage our direct order fulfillment processes using a core set of common systems and processes that receive order information from the customer and provide comprehensive supply chain management including procurement and production planning. These systems and processes enable us to process orders for multiple system configurations and varying production quantities including single units. Our direct order fulfillment services include BTO and CTO capabilities. BTO involves building a system having the particular configuration ordered by the OEM customer. CTO involves configuring systems to an end customer's order. The end customer typically places this order

by choosing from a variety of possible system configurations and options. We are capable of meeting a 48 to 72 hour turn-around-time for BTO and CTO by using advanced manufacturing processes and a real-time warehouse management system and data control on the manufacturing floor. We support our direct order fulfillment services with logistics that include delivery of parts and assemblies to the final assembly site, distribution and shipment of finished systems and processing of customer returns. Our systems are sufficiently flexible to support direct order fulfillment for a variety of different products, such as servers, workstations, set-top boxes, medical devices, scanners, printers and monitors.

### ***Global Supply Chain Management***

Supply chain management involves the planning, purchasing and warehousing of product components. The objective of our supply chain management services is to reduce excess component inventory in the supply chain by scheduling deliveries of components at a competitive price and on a just-in-time, as-and-when-needed basis. We use sophisticated production management systems to manage our procurement and manufacturing processes in an efficient and cost effective manner. We collaborate with our customers to enable us to respond to their changing component requirements for their products and to reflect any changes in these requirements in our production management systems. These systems often enable us to forecast future supply and demand imbalances and develop strategies to help our customers manage their component requirements. Our enterprise-wide software systems provide us with company-wide information regarding component inventories and orders to standardize planning and purchasing at the plant level. These systems enable us to transfer product components between plants to respond to changes in customer requirements or to address component or other raw material shortages.

We purchase large quantities of electronic components and other raw materials from a range of suppliers. As a result, we often receive volume discounts or other favorable terms from suppliers which can enable us to provide our customers with greater cost reductions than they can obtain themselves. Our supplier relationships often enable us to obtain electronic components and other raw materials that are in short supply or return excess inventories to suppliers even when they are not contractually obligated to accept them.

### **Our End Markets**

We have targeted markets that we believe offer significant growth opportunities and for which OEMs sell complex products that are subject to rapid technological change. We believe that markets involving complex, rapidly changing products offer us opportunities to produce products with higher margins because these products require higher value-added manufacturing services and may also include our advanced vertically integrated components. Our approach to our target markets is two-fold—we intend to strengthen our significant presence in the communications and enterprise computing and storage markets market, while also focusing on other under-penetrated target markets, including the medical, automotive, industrial and semiconductor capital equipment, and defense and aerospace, industries, many of which have not extensively relied upon EMS companies in the past. Our diversification across market segments and customers helps mitigate our dependence on any particular market.

***Communications Infrastructure: Wireless and Wireline Access, Optical and Wireline Transmission and Switching and Enterprise Networking.*** In the communications sector, we focus on infrastructure equipment. This includes wireless and wireline access and transmission systems, optical networking and transmission and enterprise networking systems. Our product design and engineering staff has extensive experience designing advanced communications products and components for these markets. Products we manufacture include point-to-point microwave systems, wireless base stations, satellite receivers and various radio frequency appliances, optical switches and transmission hardware, wireline access

equipment and switches and routers among others. We also manufacture optical and microelectronic components which are a key component in many of these products.

***Enterprise Computing and Storage.*** We provide CTO and BTO services to the enterprise computing and storage market. We tightly couple our vertically integrated supply chain with manufacturing and logistics allowing for assembly and distribution of products to be completed more quickly with high quality standards and at low cost. Our vertical integration capabilities include racks, enclosures, cables, complex multi-layer printed circuit boards, printed circuit assemblies and backplanes. In addition, we have designed and developed some of the most compact and powerful storage devices available on the market today which we have coupled with our global, vertically integrated supply chain and manufacturing capabilities to deliver true end-to-end, no touch, cost-effective data storage solutions.

***Multimedia.*** We manufacture digital set-top boxes, point of sale equipment, digital cameras, digital home gateways, professional audio-video equipment and internet protocol entertainment devices. For our multimedia OEM customers, we manage the production process for multimedia products including product design and engineering, test development, supply chain management, manufacturing of printed circuit boards and assemblies, final system assembly and test and direct order fulfillment including our BTO and CTO capabilities.

***Industrial and Semiconductor Systems.*** Our expertise in manufacturing highly complex systems includes production of semiconductor capital equipment, front-end environmental chambers, computer controllers and test and inspection equipment. We also have significant experience manufacturing scanning equipment and devices, flat panel display test and repair equipment, optical inspection and x-ray equipment for use in the printed circuit board assembly industry, explosive detection equipment, and deep ultraviolet photolithography equipment.

***Defense and Aerospace.*** We offer our end-to-end services to the defense and aerospace industry. We believe that this industry currently represents a significant growth opportunity for us due to increased defense spending as well as the growing desire of defense and aerospace OEMs to outsource non-core manufacturing activities in order to reduce costs. We believe our experience in serving the aerospace industry, as well as our product design and engineering capabilities, represent key competitive strengths for us in the defense and aerospace market. Defense and aerospace products that we design and manufacture include avionics systems, weapons guidance systems, cockpit communications systems, tactical and secure network communications systems and detection systems for homeland defense and space systems.

***Medical.*** We provide comprehensive manufacturing and related services to the medical industry including design, logistics and regulatory approval support. The manufacturing of products for the medical industry often requires compliance with domestic and foreign regulations including the Food and Drug Administration's or FDA's quality system regulations and the European Union's medical device directive. In addition to complying with these standards, our medical manufacturing facilities comply with ISO 13485 (formerly EN 46002) and ISO 9001:2000. Sanmina manufactures a broad range of medical systems including blood glucose meters, computed tomography scanners, respiration systems, blood analyzers, cosmetic surgery systems, thermo-regulation devices and ultrasound imaging systems.

***Automotive.*** In the automotive industry, we manufacture different types of sensors, body controllers, engine control units, radios, HVAC control heads and blower modules as well as cables for entertainment solutions. We also provide design support, product and process qualification, manufacturing, supply chain management, supplier quality assurance and end-of-life services. All our automotive dedicated factories are TS 16949 certified and provide printed circuit boards, printed circuit board assemblies and cables as well as final systems.



## Exit from PC Business

We recently exited our PC and associated logistics services business ("PC Business") in order to focus on faster growing, higher-value business opportunities. Our PC Business consisted of three customers, one of whom transitioned its business during the three months ended March 29, 2008 to a new third-party contract manufacturing provider as a result of our decision to exit the PC Business. The remaining portion of our PC Business was sold in two separate transactions, one of which closed on June 2, 2008 and the other of which closed on July 7, 2008.

## Customers

A relatively small number of customers have historically been responsible for a significant portion of our net sales. Sales to our ten largest customers represented 48.2%, 48.4% and 49.7% of our net sales in 2008, 2007 and 2006, respectively. For 2008 and 2006, no customer represented 10% or more of our net sales. For 2007, one customer represented 10.4% of our net sales.

We seek to establish and maintain long-term relationships with our customers and have served many of our principal customers for several years. Historically, we have had substantial recurring sales from existing customers. We have also expanded our customer base through acquisitions and our marketing and sales efforts. We have been successful in broadening relationships with customers by providing vertically integrated products and services as well as multiple products and services in multiple locations.

We typically enter into supply agreements with our major OEM customers with terms ranging from three to five years. Some of these supply agreements were entered into in connection with divestiture transactions which are transactions in which we also acquire plants, equipment and inventory from the OEM. In these divestiture-related supply agreements, the customer typically agrees to purchase from us its requirements for particular products in particular geographic areas and for a specific period of time. Our OEM customer supply agreements that were not entered into in connection with divestitures typically do not require the customer to purchase their product requirements from us and in these cases, customers may have alternate sources of supply available to them. Our supply agreements with our OEM customers generally do not obligate the customer to purchase minimum quantities of products. However, the customer typically remains liable for the cost of the materials and components that we have ordered to meet the customer's production forecast but which are not used, provided that the material was ordered in accordance with an agreed-upon procurement plan. In some cases, the procurement plan contains provisions regarding the types of materials for which our customers will assume responsibility. Our supply agreements typically contain provisions permitting cancellation and rescheduling of orders upon notice and subject, in some cases, to cancellation and rescheduling charges. Order cancellation charges typically vary by product type and depend upon how far in advance of shipment a customer notifies us of the cancellation of an order. In some circumstances, our supply agreements with customers provide for cost reduction objectives during the term of the agreement.

We generally do not obtain firm, long-term commitments from our customers under supply agreements. As a result, customers can cancel their orders, change production quantities or delay orders. Uncertain economic conditions and our general lack of long-term purchase contracts with our customers make it difficult for us to accurately predict revenue over the long-term. Even in those cases in which customers are contractually obligated to purchase products from us or repurchase unused inventory from us that we have ordered for them, we may elect not to immediately enforce our contractual rights because of the long-term nature of our customer relationships and for other business reasons and may instead, negotiate accommodations with customers regarding particular situations.

## **Backlog**

We generally do not obtain firm, long-term commitments from our customers. Instead, our procurement of inventory and our volume manufacturing activities are based primarily on forecasts provided from our customers. This enables us to minimize the time lapse between receipt of a customer's order and delivery of product to the customer. OEM customers typically do not make firm orders for the delivery of products more than thirty to ninety days in advance. Additionally, customers may cancel or postpone scheduled deliveries, generally without significant penalty. Therefore, we do not believe that the backlog of expected product sales covered by firm orders is a meaningful measure of future sales.

## **Marketing and Sales**

Our sales efforts are organized and managed on a regional basis with regional sales managers in geographic regions in the United States and internationally.

We develop relationships with our customers and market our vertically integrated volume manufacturing services through our direct sales force, customer support specialists and representative firms. Our sales resources are directed at multiple management and staff levels within target accounts. Our direct sales personnel and representative firms work closely with the customers' engineering and technical personnel to better understand their requirements. Our marketing and sales staff supports our business strategy of providing end-to-end services by encouraging cross-selling of vertically integrated volume manufacturing services and component manufacturing across a broad range of major OEM products. To achieve this objective, our marketing and sales staff works closely with our various manufacturing and design and engineering groups and engages in marketing and sales activities targeted towards key customer opportunities.

Each of our key customer accounts is managed by a dedicated account team including a global business manager directly responsible for account management. Global business managers coordinate activities across divisions to effectively satisfy customer requirements and have direct access to our senior management to quickly address customer concerns. Local customer account teams further support the global teams and are linked by a comprehensive communications and information management infrastructure.

Information concerning the geographic distribution of our sales can be found in note 18 of the notes to our consolidated financial statements.

## **Competition**

We face competition from other major global EMS companies such as Celestica, Inc., Flextronics International Ltd., Hon Hai (Foxtek), and Jabil Circuit, Inc., as well as other EMS companies that often have a regional product, service or industry specific focus. In addition, our potential customers may also compare the benefits of outsourcing their manufacturing to us with the merits of manufacturing products themselves.

We compete with different companies depending on the type of service or geographic area. We believe that the primary basis of competition in our target markets is manufacturing technology, quality, delivery, responsiveness, provision of value-added services and price. To remain competitive, we must continue to provide technologically advanced manufacturing services, maintain quality levels, offer flexible delivery schedules, deliver finished products on a reliable basis and compete favorably on the basis of price. We believe our primary competitive strengths include our ability to provide global end-to-end services, our product design and engineering resources, our advanced technologies, our high quality manufacturing assembly and test services, our customer focus, our expertise in serving diverse end markets and experienced management team.

## **Intellectual Property**

We hold various United States and foreign patents primarily related to printed circuit board technologies, methods of manufacturing printed circuit boards, enclosures, memory modules and enterprise computing (servers and storage). For other proprietary processes, we rely primarily on trade secret protection. We also have registered trademarks in the United States and many other countries throughout the world.

From time to time, we receive communications from third parties that include assertions with respect to intellectual property rights. Although we do not believe that our services infringe on the intellectual property rights of third parties in any material respect, we cannot assure you that third parties will not assert infringement claims against us in the future. If such an assertion were to be made, it may become necessary or useful for us to enter into licensing arrangements or to resolve such an issue through litigation. However, we cannot assure you that such license rights would be available to us on commercially acceptable terms, if at all, or that any such litigation would be resolved favorably. Additionally, such litigation could be lengthy and costly and could materially affect our financial condition regardless of the outcome of such litigation.

## **Environmental Controls**

We are subject to a variety of local, state and federal environmental laws and regulations in the United States, as well as foreign laws and regulations relating to the treatment, storage, use, discharge, emission and disposal of chemicals, solid waste and other hazardous materials used during our manufacturing processes. We are also subject to occupational safety and health laws, product take back, product labeling and product content requirements. Proper waste disposal is a major consideration in particular for printed circuit board manufacturers because metals and chemicals are used in the manufacturing process. Water used in the printed circuit board manufacturing process must be treated to remove metal particles and other contaminants before it can be discharged into municipal sanitary sewer systems. We operate on-site wastewater treatment systems at our printed circuit board manufacturing plants in order to treat wastewater generated in the fabrication process.

In addition, although the electronics assembly process generates significantly less wastewater than printed circuit board fabrication, maintenance of environmental controls is also important in the electronics assembly process because such operations can generate lead dust. Upon vacating a facility, we are responsible for remediating the lead dust from the interior of the manufacturing facility. Although there are no applicable standards for lead dust remediation in manufacturing facilities, we endeavor to make efforts to remove the residues. To date, lead dust remediation costs have not been material to our operations. We also monitor for airborne concentrations of lead in our buildings and are not aware of any significant lead concentrations in excess of the applicable OSHA or other local standards.

We have a range of corporate programs in place with regard to environmental compliance and reduction of the use of hazardous materials in manufacturing. In the environmental compliance area, we are developing corporate-wide standardized environmental management systems, auditing programs and policies to enable us to better manage environmental compliance activities. We are also developing programs to certify our facilities under ISO 14001, a set of standards and procedures relating to environmental compliance management. In addition, the electronics industry is subject to the European Union's Restrictions of Hazardous Substances, or RoHS, and Waste Electrical and Electronic Equipment, or WEEE, directives which took effect beginning in 2006. Parallel initiatives have been adopted in other jurisdictions, including several states in the United States and the Peoples' Republic of China. RoHS prohibits the use of lead, mercury and certain other specified substances in electronics products and WEEE requires industry OEMs to assume responsibility for the collection, recycling and management of waste electronic products and components. We have implemented procedures to make

our manufacturing process compliant with RoHS and we believe products sold by us into countries with restrictions on the concentrations of hazardous materials contained in those products (such as RoHS in the European Union) comply with such restrictions. In the case of WEEE, the compliance responsibility rests primarily with OEMs rather than with EMS companies. However, OEMs may turn to EMS companies for assistance in meeting their WEEE obligations. We are in the process of developing programs that we can offer to our customers to assist them with WEEE compliance.

Asbestos containing materials, or ACM, are present at several of our manufacturing facilities. Although the ACM is being managed and controls have been put in place pursuant to ACM operations and maintenance plans, the presence of ACM could give rise to affirmative remediation obligations and other liabilities. No third-party claims relating to ACM have been brought at this time.

Each plant, to the extent required by law, operates under environmental permits issued by the appropriate governmental authority. These permits must be renewed periodically and are subject to revocation in the event of violations of environmental laws. Any such revocation could require us to cease or limit production at one or more of our facilities, thereby having an adverse impact on our results of operations. We have not experienced any material revocations to date.

Primarily as a result of certain of our acquisitions, we have incurred liabilities associated with environmental contamination at certain of our facilities. These liabilities relate to ongoing investigation and remediation activities at a number of sites, including our facilities located in Irvine, California (a former facility acquired as part of our acquisition of Elecsys); Owego, New York (a current facility that we acquired with our acquisition of Hadco Corporation); Derry, New Hampshire (a non-operating facility of Hadco), Fort Lauderdale, Florida (a former facility of Hadco) and Phoenix, Arizona (a site we acquired with our acquisition of Hadco Corporation). We have been named in a lawsuit alleging operations at our former facility in Santa Ana, California contributed to groundwater contamination. There can be no assurance that other similar third-party claims will not arise and will not result in material liability to us. In addition, there are some sites, including our facility in Gunzenhausen, Germany (acquired from Alcatel) that are known to have groundwater contamination caused by a third-party, and that third-party has provided indemnity to us for the liability.

We have also been named as a potentially responsible party at several contaminated disposal sites operated by other parties including the Casmalia Resources site as a result of the past disposal of hazardous waste by companies we have acquired or by our corporate predecessors. Although liabilities for such historic disposal activities have not materially affected our financial condition to date, we cannot assure you that past disposal activities will not result in liability that will materially affect us in the future.

We use an environmental consultant to assist us in evaluating the environmental liabilities of the companies that we acquire as well as those associated with our ongoing operations, site contamination issues and historical disposal activities in order to establish appropriate accruals in our consolidated financial statements. In addition to liabilities associated with site contamination and related issues, we could also incur expenses associated with inventories containing restricted substances that we do not consume by the RoHS effective dates. We also undertake a process of evaluating and updating our reserves as necessary.

## **Employees**

As of September 27, 2008, we had 45,610 employees, including 7,489 temporary employees. None of our U.S. employees are represented by a labor union. In some international locations, particularly in Western Europe, Latin America and the Middle East, our employees are represented by labor unions on either a national or plant level or are subject to collective bargaining agreements. Some Western European countries and Latin American countries also have mandatory legal provisions regarding terms

of employment, severance compensation and other conditions of employment that are more restrictive than U.S. laws. We believe that our relationship with our employees is good.

## **Available Information**

Our Internet address is <http://www.sanmina-sci.com>. We make available through our website, free of charge, our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission, or SEC. All reports we file with the SEC are also available free of charge via EDGAR through the SEC's website at <http://www.sec.gov>.

## **Item 1A. Risk Factors Affecting Operating Results**

### ***Adverse market conditions in the electronics industry could reduce our future sales and earnings per share.***

Recently, the business environment in the electronics industry has become challenging due to adverse worldwide economic conditions. The conditions have resulted, and may result in the future, in our customers delaying purchases of the products we manufacture for them and our customers placing purchase orders for lower volumes of products than previously experienced or anticipated. We cannot accurately predict future levels of demand for our customers' electronics products. Consequently, our past operating results, earnings and cash flows may not be indicative of our future operating results, earnings and cash flows, which could be less than past results.

### ***We are subject to intense competition in the EMS industry which could cause us to lose sales and therefore hurt our financial performance.***

The EMS industry is highly competitive and the industry has been experiencing an increase in excess manufacturing capacity, particularly in light of slowing U.S. and international economies. Our competitors include major global EMS providers such as Celestica, Inc., Flextronics International Ltd., Hon Hai (Foxtek) and Jabil Circuit, Inc., as well as other EMS companies that have a regional, product, service or industry specific focus. Some of these companies have greater manufacturing and financial resources than we do. We also face competition from current and potential OEM customers who may elect to manufacture their own products internally rather than outsourcing to EMS providers.

We may not be able to offer prices as low as some of our competitors because those competitors may have lower operating costs as a result of their geographic location or the services they provide or because these competitors are willing to provide EMS services at prices that result in lower gross margins in order to utilize more of their capacity. If we are unable or unwilling to offer prices that are competitive with other EMS companies, our net sales may decline. We have experienced instances in which customers have transferred all or certain portions of their business to competitors in response to more attractive pricing quotations than we have been willing to offer to retain such customers, and there can be no assurance that we will not lose business in the future in response to such competitive pricing or other inducements which may be offered by our competitors.

### ***Our operating results are subject to significant uncertainties, which make predictability of our future sales and net income difficult.***

Our operating results are subject to significant uncertainties, including:

- economic conditions in the economy as a whole and in the electronics industry;
- timing of orders from major customers and the accuracy of their forecasts;

- timing of expenditures in anticipation of increased sales, customer product delivery requirements and shortages of components or labor;
- mix of products ordered by and shipped to major customers, as high volume and low complexity manufacturing services typically have lower gross margins than more complex and lower volume services;
- degree to which we are able to utilize our available manufacturing capacity;
- our ability to effectively plan production and manage our inventory and fixed assets;
- customer insolvencies resulting in bad debt or inventory exposures that are in excess of our reserves;
- our ability to efficiently move manufacturing activities to lower cost regions without adversely affecting customer relationships and while controlling costs related to the closure of facilities and employee severance;
- pricing and other competitive pressures;
- seasonality in customers' product requirements;
- fluctuations in component prices;
- political and economic developments in countries in which we have operations;
- component shortages, which could cause us to be unable to meet customer delivery schedules;
- timing of new product development by our customers creating demand for our services; and
- levels of demand in the end markets served by our customers.

A portion of our operating expenses is relatively fixed in nature and planned expenditures are based in part on anticipated orders, which are difficult to predict. If we do not receive anticipated orders as expected, our profitability will decline. Moreover, our ability to reduce our costs as a result of current or future restructuring efforts may be limited because consolidation of operations can be a costly and lengthy process to complete.

***We may be unable to obtain sufficient financing to maintain or expand our operations, which may cause our stock price to fall and reduce the business our customers and vendors do with us.***

In order to allow us to better manage our working capital requirements, we entered into a five-year \$135 million asset-backed credit facility in November 2008, which may be expanded by \$200 million, subject to obtaining additional lender commitments and increasing the borrowing base required under the facility. Should we need additional sources of liquidity, we can provide no assurance that such financing will be available on acceptable terms or at all. In addition, although we seek high quality counterparties for our financing arrangements, there can be no assurance that any such counterparty will be able to provide credit when and as required by our current or future financing arrangements. If additional financing, including an expansion of the existing credit facility, is not available when required, our ability to maintain or increase our rates of production, expand our manufacturing capacity or refinance our outstanding debt will be harmed, which could cause our stock price to fall and reduce our customers' and vendors' willingness to do business with us.

***If we are unable to comply with the covenants in our credit arrangements, our outstanding debt could become immediately payable.***

Our debt agreements contain a number of restrictive covenants, including prohibitions on incurring additional debt, making investments and other restricted payments, paying dividends and redeeming or

repurchasing capital stock. In addition, such agreements include affirmative covenants requiring, among other things, that we file quarterly and annual financial statements with the SEC. If we are not able to comply with all of these covenants, for any reason, some or all of our outstanding debt could become immediately due and payable and the incurrence of additional debt under the asset-backed facility would not be allowed. If our cash is utilized to repay outstanding debt, we could experience an immediate and significant reduction in working capital available to operate our business.

***An increase in variable interest rates would increase our net interest expense and decrease our operating cash flows and net income.***

Interest to be paid by us under certain high-yield debt or our asset-backed credit facility will or may be at interest rates that fluctuate based upon changes in various base interest rates. In particular, borrowings under our \$300 million principal amount Senior Floating Rate Notes due in 2014 and borrowings, if any, under our asset-backed credit facility are based upon LIBOR. Recent financial events have resulted in an increase in LIBOR rates compared to a year ago. Should LIBOR rates remain elevated or should we elect or be required to borrow under our asset-backed credit facility, we may incur increased interest expense, which would reduce our cash flows and earnings.

***Adverse changes in the key end markets we target could harm our business by reducing our sales.***

We provide EMS services for companies that sell products in the communications, computing and storage, multimedia, industrial and semiconductor systems, defense and aerospace, medical and automotive sectors of the electronics industry. Adverse changes in these markets could reduce demand for our customers' products and make these customers more sensitive to the cost of our EMS services, either of which could reduce our sales, gross margins and net income. Factors affecting any of our customers' industries in general, or our customers in particular, could seriously harm our business. These factors include:

- short product life cycles leading to continuing new requirements and specifications for our customers products, the failure of which to meet could cause us to lose business;
- seasonality in the demand for our customers' products, reducing our sales during certain periods;
- failure of our customers' products to gain widespread commercial acceptance which could decrease the volume of orders customers place with us; and
- recessionary periods in our customers' markets which decrease orders from affected customers.

***We generally do not obtain long-term volume purchase commitments from customers and, therefore, cancellations, reductions in production quantities and delays in production by our customers could reduce our sales and net income.***

We generally do not obtain firm, long-term purchase commitments from our customers. As a result, customers may cancel their orders, reduce production quantities or delay production for a number of reasons. In the event our customers experience significant decreases in demand for their products and services, our customers may cancel orders, delay the delivery of some of the products that we manufacture or place purchase orders for fewer products than we previously anticipated. Even when our customers are contractually obligated to purchase products from us, we may be unable or, for other business reasons, choose not to enforce our contractual rights. Cancellations, reductions or delays of orders by customers would:

- reduce our sales and net income by decreasing the volumes of products that we manufacture for our customers;

- delay or eliminate recovery of our expenditures for inventory purchased in preparation for customer orders; and
- lower our asset utilization, which would result in lower gross margins and lower net income.

In addition, customers are increasingly requiring that we transfer the manufacturing of their products from one facility to another to achieve cost reductions and other objectives. These transfers have resulted in increased costs to us due to facility downtime or less than optimal utilization of our manufacturing capacity. These transfers also have required us to close or reduce operations at certain facilities, particularly those in high cost locations such as the United States and Western Europe, and as a result we have incurred increased costs for the closure of facilities, employee severance and related matters. We also have encountered occasional delays and complications related to the transition of manufacturing programs to new locations. We may be required to relocate our manufacturing operations in the future and, accordingly, we may incur additional costs that decrease our net income.

***We rely on a small number of customers for a substantial portion of our sales, and declines in sales to these customers would reduce our net sales and net income.***

Most of our sales are generated by a small number of customers. Sales to our ten largest customers represented 48.2% of our net sales during 2008. We expect to continue to depend upon a relatively small number of customers for a significant percentage of our sales. Consolidation among our customers may further concentrate our business in a limited number of customers and expose us to increased risks related to dependence on a small number of customers. In addition, a significant reduction in sales to any of our large customers or significant pricing and margin pressures exerted by a key customer would adversely affect our operating results. In the past, some of our large customers have significantly reduced or delayed the volume of manufacturing services ordered from us as a result of changes in their business, consolidations or divestitures or for other reasons. We cannot assure you that present or future large customers will not terminate their manufacturing arrangements with us or significantly change, reduce or delay the amount of manufacturing services ordered from us, any of which would reduce our net sales and net income.

***Consolidation in the electronics industry may adversely affect our business by increasing competition or customer buying power.***

Consolidation in the electronics industry among our customers, our potential customers and/or our competitors may increase as companies combine to achieve further economies of scale and other synergies. Consolidation in the electronics industry could result in an increasing number of very large electronics companies offering products in multiple sectors of the electronics industry. The significant purchasing and market power of these large companies could increase competitive pressures on us. In addition, if one of our customers is acquired by another company that does not rely on us to provide EMS services and has its own production facilities or relies on another provider of similar services, we may lose that customer's business. Consolidation in the electronics industry may also result in excess manufacturing capacity among EMS companies, which could drive down gross margins and therefore profitability.

***Our stock price may continue to decline, which could cause our stock to be delisted from the NASDAQ Global Select Market.***

Between September 30, 2008 and November 14, 2008, our stock price fell approximately 64% to \$0.50 per share. The NASDAQ Global Select Market requires that listed companies maintain a minimum price of \$1.00 per share. Although our stockholders have approved an amendment to our certificate of incorporation that would permit us to effect a reverse split of our outstanding and authorized common stock within a range of one-for-three to one-for-ten in order to, among other



things, increase the stock price above this level, the effect of a reverse split upon the market price of our common stock cannot be predicted with any certainty. The market price of our common stock is primarily driven by other factors unrelated to the number of shares outstanding, including our current and expected future performance, conditions in the EMS industry and stock market conditions generally. Therefore, it is possible that the per share price of our common stock after the reverse split, if implemented by the Board, will not rise in proportion to the reduction in the number of shares of our common stock outstanding resulting from the reverse stock split, in which case our stock could be delisted from the NASDAQ Global Select Market.

***If demand for our higher-end, higher margin manufacturing services does not increase, our future gross margins and operating results may be lower than expected.***

We typically earn lower gross margins when we provide less complex EMS services. Historically, sales of our services to OEMs in the communications sector accounted for a substantially greater portion of our net sales and earnings than in recent periods. In addition, we experience continued pressure from OEMs to reduce prices, and competition for this business remains intense. Pricing pressure is typically more intense for less complex, lower margin EMS services. This price competition has affected, and could continue to adversely affect, our gross margins. If demand for our higher-end, higher margin manufacturing services does not increase in the future, our gross margins and operating results in future periods may be lower than expected.

***We recently sold our PC business, which will materially reduce our cash flows.***

As part of our restructuring strategy, we exited our PC business in 2008 in two separate transactions. We expect the effect of these transactions will be to materially reduce our cash flows and to reduce our accounts receivable available for sale under our factoring arrangements, which could affect the timing of cash receipts.

***The impact of price inflation could reduce our net income.***

In recent months, the costs of commodities, parts and components used in the manufacture of our products have increased, in some cases substantially. Should we not be successful in adjusting our pricing to account for such inflation as a result of competition, to preserve customer goodwill or for any other reason, our gross margins, and therefore net income, would decline.

***Our failure to comply with applicable environmental laws could adversely affect our business by causing us to pay significant amounts for clean up of hazardous materials or for damages or fines.***

We are subject to various federal, state, local and foreign environmental laws and regulations, including those governing the use, storage, discharge and disposal of hazardous substances and wastes in the ordinary course of our manufacturing operations. We also are subject to laws and regulations governing the recyclability of products, the materials that may be included in products, and the obligations of a manufacturer to dispose of these products after end users have finished using them. If we violate environmental laws, we may be held liable for damages and the costs of remedial actions and we may be subject to revocation of permits necessary to conduct our businesses. We cannot assure you that we will not violate environmental laws and regulations in the future as a result of human error, equipment failure, our inability to obtain permits or other causes. Any permit revocations could require us to cease or limit production at one or more of our facilities, which could reduce our ability to fill customer orders and therefore our sales and net income. Although we estimate our potential liability with respect to violations or alleged violations and accrue for such liability, we cannot assure you that any accruals will be sufficient to cover the actual costs that we incur as a result of these violations or alleged violations. Our failure to comply with applicable environmental laws and

regulations could limit our ability to expand facilities or could require us to acquire costly equipment or to incur other significant expenses to comply with these laws and regulations.

ACMs, are present at several of our manufacturing facilities. Although the ACM is being managed and controls have been put in place pursuant to ACM operations and maintenance plans, the presence of ACM could give rise to affirmative remediation obligations and other liabilities. No governmental or third-party claims relating to ACM have been brought at this time.

Each plant, to the extent required by law, operates under environmental permits issued by the appropriate governmental authority. These permits must be renewed periodically and are subject to revocation in the event of violations of environmental laws. Although we have not experienced any material revocations to date, any such revocation could require us to cease or limit production at one or more of our facilities, thereby having an adverse impact on our results of operations.

Primarily as a result of certain of our acquisitions, we have incurred liabilities associated with environmental contamination. These liabilities include ongoing investigation and remediation activities at a number of sites, including our facilities located in Irvine, California (a former facility acquired as part of our acquisition of Elecsys); Owego, New York (a current facility that we acquired with our acquisition of Hadco Corporation); Derry, New Hampshire (a non-operating facility of Hadco), Fort Lauderdale, Florida (a former facility of Hadco) and Phoenix, Arizona (a site we acquired with our acquisition of Hadco Corporation). We have been named in a lawsuit alleging operations at our former facility in Santa Ana, California contributed to groundwater contamination. There can be no assurance that any other similar third-party claims will not arise and will not result in material liability to us. In addition, there are some sites, including our facility in Gunzenhausen, Germany (acquired from Alcatel), that are known to have groundwater contamination caused by a third-party, and that third-party has provided indemnity to us for the liability.

We have also been named as a potentially responsible party at several contaminated disposal sites operated by other parties, including the Casmalia Resources site, as a result of the past disposal of hazardous waste by companies we have acquired or by our corporate predecessors. Although liabilities for such historic disposal activities have not materially affected our financial condition to date, we cannot assure you that past disposal activities will not result in liability that will materially affect us in the future.

Over the years, environmental laws have become, and in the future may continue to become, more stringent, imposing greater compliance costs and increasing risks and penalties associated with violations. We operate in several environmentally sensitive locations and are subject to potentially conflicting and changing regulatory agendas of political, business and environmental groups. Changes in or restrictions on discharge limits, emissions levels, permitting requirements and material storage or handling could require a higher than anticipated level of operating expenses and capital investment or, depending on the severity of the impact of the foregoing factors, costly plant relocation.

In addition, the electronics industry became subject to the RoHS and WEEE directives which took effect beginning in 2005. Parallel initiatives have been adopted in other jurisdictions, including several states in the United States and the People's Republic of China. RoHS prohibits the use of lead, mercury and certain other specified substances in electronics products and WEEE requires industry OEMs to assume responsibility for the collection, recycling and management of waste electronic products and components. While we believe we have implemented procedures to make our manufacturing process RoHS compliant, non-compliance could result in significant costs and/or penalties. In the case of WEEE, the compliance responsibility rests primarily with OEMs rather than with EMS companies. However, OEMs may turn to EMS companies for assistance in meeting their WEEE obligations, which could increase our costs.

***We are potentially liable for contamination of our current and former facilities, including those of the companies we have acquired, which could increase our expenses and harm our operating results in the future.***

We are potentially liable for contamination at our current and former facilities, including those of the companies we have acquired. These liabilities include ongoing investigation and remediation activities at a number of sites. In some cases, third-party claims have been brought against us for contamination. We cannot assure you that these claims will not result in material liability to us or additional claims will not arise. For example, we are currently in the process of remediating contamination at one of our sites in the United States. We expect to incur \$10.7 million of costs for assessment, testing and remediation. Although we believe we have adequately accrued for expenses relating to environmental matters, we cannot assure you that we will not incur additional liability in the future or that any such additional liability would not increase our liability or harm our operating results.

***We are subject to risks arising from our international operations.***

We conduct our international operations primarily in Asia, Latin America, Canada and Europe, and we continue to consider additional opportunities to make foreign acquisitions and construct new foreign facilities. We generated 69.7% of our net sales from non-U.S. operations during 2008, and a significant portion of our manufacturing material was provided by international suppliers during this period. As a result of our international operations, we are affected by economic and political conditions in foreign countries, including:

- imposition of government controls;
- difficulties in obtaining or complying with export licenses;
- political and economic instability, including armed conflicts;
- trade restrictions;
- changes in tariffs;
- labor unrest and difficulties in staffing;
- inflexible employee contracts in the event of business downturns;
- coordinating communications among and managing international operations;
- fluctuations in currency exchange rates;
- currency controls;
- increases in duty and/or income tax rates;
- misappropriation of intellectual property; and
- constraints on our ability to maintain or increase prices.

Our operations in certain foreign locations receive favorable income tax treatment in the form of tax holidays or other incentives. In the event that such tax holidays or other incentives are not extended, are repealed, or we no longer qualify for such programs, our taxes may increase, which would reduce our net income.

Additionally, certain foreign jurisdictions restrict the amount of cash that can be transferred to the United States or impose taxes and penalties on such transfers of cash. To the extent we have excess cash in foreign locations that could be used in, or is needed by, our U.S. operations, we may incur significant penalties and/or taxes to repatriate these funds.

To respond to competitive pressures and customer requirements, we may further expand internationally in lower cost locations, particularly in Asia, Eastern Europe and Latin America. As we pursue continued expansion in these locations, we may incur additional capital expenditures. In addition, the cost structure in certain countries that are now considered to be favorable may increase as their economies develop or as such countries join multinational economic communities or organizations, causing local wages to rise. As a result, we may need to continue to seek out new locations with lower costs and the employee and infrastructure base to support electronics manufacturing. We cannot assure you that we will realize the anticipated strategic benefits of our international operations or that our international operations will contribute positively to our operating results.

***We can experience losses due to foreign exchange rate fluctuations.***

Because we manufacture and sell a substantial portion of our products abroad, our operating costs are subject to fluctuations in foreign currency exchange rates. Specifically, if the U.S. dollar weakens against the foreign currencies in which we denominate certain of our trade accounts payable, fixed purchase obligations and other expenses, the U.S. dollar equivalent of such expenses would increase. We use financial instruments, primarily short-term foreign currency forward contracts, to hedge certain forecasted foreign currency commitments arising from trade accounts receivable, trade accounts payable and fixed purchase obligations. Our foreign currency hedging activities depend largely upon the accuracy of our forecasts of future sales, expenses and monetary assets and liabilities. As such, our foreign currency forward contracts may exceed or not cover our full exposure to exchange rate fluctuations. If these hedging activities are not successful, we may experience significant unexpected expenses from fluctuations in exchange rates. Although we believe our foreign exchange hedging policies are reasonable and prudent under the circumstances, we can provide no assurances that we will not experience losses arising from unhedged currency fluctuations in the future, which could be significant.

***If we manufacture or design defective products, or if our manufacturing processes do not comply with applicable statutory and regulatory requirements, we could be subject to damages and fines and lose customers.***

We manufacture products to our customers' specifications, and in some cases our manufacturing processes and facilities may need to comply with applicable statutory and regulatory requirements. For example, many of the medical devices that we manufacture, as well as the facilities and manufacturing processes that we use to produce them, are regulated by the United States Food and Drug Administration. In addition, our customers' products and the manufacturing processes that we use to produce them often are highly complex. As a result, products that we design or manufacture may at times contain design or manufacturing defects, and our manufacturing processes may be subject to errors or may not be in compliance with applicable statutory and regulatory requirements. Defects in the products we design or manufacture may result in delayed shipments to customers or reduced or cancelled customer orders. If these defects or deficiencies are significant, our business reputation may also be damaged. The failure of the products that we design or manufacture or of our manufacturing processes and facilities to comply with applicable statutory and regulatory requirements may subject us to legal fines or penalties and, in some cases, require us to shut down or incur considerable expense to correct a manufacturing program or facility. In addition, these defects may result in product liability claims against us. The magnitude of such claims may increase as we expand our medical, automotive, and aerospace and defense manufacturing services because defects in medical devices, automotive components and aerospace and defense systems could seriously harm users of these products. Even if our customers are responsible for defects in the design of a product, we could nonetheless be named in a product liability suit over such defects and could be required to expend significant resources defending ourselves.

***If our products are subject to warranty or liability claims, we may incur significant costs, which would reduce our net income.***

Our customers may experience defects in our designs or deficiencies with respect to our manufacturing services. We may be exposed to warranty or manufacturers' liability claims as a result of these defects or deficiencies, and some claims may relate to customer product recalls. We also design products on a contract basis or jointly with our customers. The design services that we provide can expose us to different or greater potential liabilities than those we face when providing our regular manufacturing services. For example, we have increased exposure to potential product liability claims resulting from injuries caused by defects in products we design, as well as potential claims that products we design infringe third-party intellectual property rights. Such claims could subject us to significant liability for damages and, regardless of their merits, could be time-consuming and expensive to resolve. A claim for damages arising from such defects or deficiencies could damage our reputation and result in our being liable for the costs of return and repair of such defective products or for damages for any injuries or other losses incurred by our customers or their end users. Any such costs could be significant and would reduce our net income.

***Restructuring of our operations could require us to take an accounting charge which would reduce our net income.***

We have incurred significant expenses related to restructuring of our operations in the past. For example, we have moved, and we intend to continue moving, our operations from higher-cost to lower-cost locations to meet customer requirements. In addition, we have incurred unanticipated costs related to the transfer of operations to lower-cost locations, including costs related to integrating new facilities, managing operations in dispersed locations and realigning our business processes. We also have incurred costs related to workforce reductions, work stoppages and labor unrest resulting from the closure of our facilities in higher cost locations. We expect to be required to record additional charges related to restructuring activities in the future, but cannot predict the timing or amount of such charges. Any such charges would reduce our net income.

***Unanticipated changes in our tax rates or exposure to additional income tax liabilities could increase our taxes and decrease our net income.***

We are subject to income taxes in both the United States and various foreign jurisdictions. Significant judgment is required in determining our worldwide provision for income taxes and, in the ordinary course of business, there are many transactions and calculations where the ultimate tax determination is uncertain. Our effective tax rates could be adversely affected by changes in the mix of earnings in countries with differing statutory tax rates, changes in the valuation of deferred tax assets and liabilities, changes in tax laws as well as other factors. Our tax determinations are regularly subject to audit by tax authorities and developments in those audits could adversely affect our income tax provision. Although we believe that our tax estimates are reasonable, the final determination of tax audits or tax disputes may be different from what is reflected in our historical income tax provisions which could lead to an increase in our taxes payable and a commensurate decrease in our net income.

***We may not be successful in implementing and integrating strategic transactions or in divesting non-strategic assets, which could cause our financial results to fail to meet our forecasts.***

From time to time, we may undertake strategic transactions that give us the opportunity to access new customers and new end-customer markets, to obtain new manufacturing and service capabilities and technologies, to enter new geographic manufacturing locations, to lower our manufacturing costs

and improve the margins on our product mix, and to further develop existing customer relationships. Strategic transactions involve many difficulties and uncertainties, including the following:

- integrating acquired operations and businesses;
- allocating management resources;
- scaling up production and coordinating management of operations at new sites;
- separating operations or support infrastructure for entities divested;
- managing and integrating operations in geographically dispersed locations;
- maintaining customer, supplier or other favorable business relationships of acquired operations and terminating unfavorable relationships;
- integrating the acquired company's systems into our management information systems;
- addressing unforeseen liabilities of acquired businesses;
- operating in the geographic market or industry sector of the business acquired in which we have little or no experience;
- improving and expanding our management information systems to accommodate expanded operations; and
- losing key employees of acquired operations.

Any of these factors could prevent us from realizing the anticipated benefits of a strategic transaction, and our failure to realize these benefits could reduce our sales below and increase our costs above our forecasts. We may not be successful in identifying future strategic opportunities or in consummating any strategic transactions that we pursue on favorable terms, if at all. Although our goal is to improve our business and maximize stockholder value, any transactions that we complete may ultimately fail to increase our sales and net income and stock price.

***Our key personnel are critical to the continued growth of our business and we cannot assure you that they will remain with us.***

Our success depends upon the continued service of our executive officers and other key personnel. Generally, these employees are not bound by employment or non-competition agreements. We cannot assure you that we will retain our officers and key employees, particularly our highly skilled operations managers and engineers involved in the manufacture of existing products and development of new products and processes. The competition for these employees is intense. In addition, if one or more of our executive officers or key employees were to join a competitor or otherwise compete directly or indirectly with us or otherwise be unavailable to us, we could lose customers and our sales and gross margins could decrease.

***If we are unable to protect our intellectual property or infringe, or are alleged to infringe, upon intellectual property of others, we could lose sales or be required to pay significant amounts in costs or damages.***

We rely on a combination of copyright, patent, trademark and trade secret laws and restrictions on disclosure to protect our intellectual property rights. We cannot be certain that the steps we have taken will prevent unauthorized use of our technology. Any failure to protect our intellectual property rights would diminish or eliminate the competitive advantages that we derive from our proprietary technology.

We may become involved in litigation in the future to protect our intellectual property or because others may allege that we infringe on their intellectual property. These claims and any resulting lawsuits could subject us to significant liability for damages and invalidate our proprietary rights. In addition,

these lawsuits, regardless of their merits, likely would be time consuming and expensive to resolve and would divert management's time and attention. Any potential intellectual property litigation alleging our infringement of a third-party's intellectual property also could force us or our customers to:

- stop producing products that use the challenged intellectual property;
- obtain from the owner of the infringed intellectual property a license to sell the relevant technology at an additional cost, which license may not be available on reasonable terms, or at all; and
- redesign those products or services that use the infringed technology.

Any costs we incur from having to take any of these actions could be substantial.

***We may experience component shortages, which could cause us to delay shipments to customers and reduce our sales and net income.***

We are dependent on certain suppliers, including limited and sole source suppliers, to provide key components we incorporate into our products. We have experienced in the past, and may experience in the future, delays in component deliveries, which in turn could cause delays in product shipments and require the redesign of certain products. In particular, we have experienced shortages of application-specific integrated circuits, capacitors and connectors as well as other components. Unanticipated component shortages prevent us from making scheduled shipments to customers and could cause us to experience a shortfall in sales, increase our costs and adversely affect our relationship with the affected customer and our reputation generally as a reliable service provider. Component shortages may also increase our cost of goods sold because we may be required to pay higher prices for components in short supply and redesign or reconfigure products to accommodate substitute components. In addition, we may purchase components in advance of our requirements for those components as a result of a threatened or anticipated shortage. In this event, we may incur additional inventory carrying costs, for which we may not be compensated, and have a heightened risk of exposure to inventory obsolescence. As a result, component shortages could adversely affect our operating results for a particular period due to the resulting sales shortfall and increased manufacturing or component costs.

***We are subject to continuing private litigation and government investigations concerning our historical stock option practices, which could result in us being liable for significant damages.***

We have substantially completed an investigation of our accounting for stock options. As a result of an investigation of our accounting for stock options, we filed a comprehensive Form 10-K for 2006 which restated our consolidated financial statements for prior years and which reduced our net income due to mispriced stock options granted in prior periods. Following this filing, we became subject to significant pending civil litigation, including derivative claims made on behalf of us, the defense of which has required us to devote significant management attention and to incur significant legal expense. In addition, we are subject to an ongoing formal investigation by U.S. Department of Justice with respect to these matters. We cannot predict the final resolution of these matters which could result in the payment of significant damages, penalties and costs to indemnify current or former officers and directors of the Company.

***We may not have sufficient insurance coverage for certain of the risks and liabilities we assume in connection with the products and services we provide to our customers, which could leave us responsible for certain costs and damages incurred by our customers.***

We carry various forms of business and liability insurance that we believe are reasonable and customary for similarly situated companies in our industry. However, we do not have insurance coverage for all of the risks and liabilities we assume in connection with the products and services we

provide to our customers, such as potential warranty, product liability and product recall claims. As a result, such liability claims may only be partially covered under our insurance policies. We continue to monitor the insurance marketplace to evaluate the availability of and need to obtain additional insurance coverage in the future. However, should we sustain a significant uncovered loss, our net income would be reduced.

***Changes in financial accounting standards or policies have affected, and in the future may affect, our reported financial condition or results of operations. Additionally, changes in securities laws and regulations have increased, and are likely to continue to increase, our operating costs.***

We prepare our consolidated financial statements in conformity with accounting principles generally accepted in the United States, or U.S. GAAP. Our preparation of financial statements in accordance with U.S. GAAP requires that we make estimates and assumptions that affect the recorded amounts of assets and liabilities, disclosure of those assets and liabilities at the date of the financial statements and the recorded amounts of expenses during the reporting period. A change in the facts and circumstances surrounding those estimates could result in a change to our estimates and could impact our future operating results.

In addition, these principles are subject to interpretation by the Financial Accounting Standards Board (FASB), the American Institute of Certified Public Accountants (AICPA), the SEC and various bodies formed to interpret and create appropriate accounting policies. A change in those policies can have a significant effect on our reported results and may affect our reporting of transactions which are completed before a change is announced. Accounting policies affecting many other aspects of our business, including rules relating to revenue recognition, off-balance sheet transactions, stock-based compensation, restructurings, asset disposals and asset retirement obligations, intangible assets, derivative and other financial instruments and in-process research and development charges, have recently been revised or are under review. Changes to those rules or the questioning of how we interpret or implement those rules may have a material adverse effect on our reported financial results or on the way we conduct business. For example, the SEC has recently proposed a timetable by which U.S. companies would adopt International Financial Reporting Standards. Although at a very early stage of consideration by regulatory agencies, adoption of such standards could substantially change our reporting practices in a number of areas, including revenue recognition and recording of assets and liabilities.

Finally, the Sarbanes-Oxley Act of 2002 required changes in our corporate governance, public disclosure and compliance practices. The number of rules and regulations applicable to us has increased and may continue to increase our legal and financial compliance costs and increased the amount of time management must devote to compliance activities, such as the requirement for management to annually report in our annual report its conclusions concerning the effectiveness of our system of internal control over financial reporting. These developments could also make it more difficult for us to attract and retain qualified members of our board of directors, particularly to serve on our audit committee, and qualified executive officers in light of an increase in actual or perceived liability for serving in such positions.

***We are subject to risks associated with natural disasters and global events.***

We conduct a significant portion of our activities including manufacturing, administration and data processing at facilities located in the State of California and other seismically active areas that have experienced major earthquakes in the past, as well as other natural disasters. Our insurance coverage with respect to natural disasters is limited and is subject to deductibles and coverage limits. Such coverage may not be adequate or continue to be available at commercially reasonable rates and terms. In the event of a major earthquake or other disaster affecting one or more of our facilities, it could significantly disrupt our operations, delay or prevent product manufacture and shipment for the time



required to transfer production, repair, rebuild or replace the affected manufacturing facilities. This time frame could be lengthy and result in significant expenses for repair and related costs. In addition, concerns about terrorism or an outbreak of epidemic diseases could have a negative effect on travel and our business operations and result in reduced sales and net income.

**Item 1B. *Unresolved Staff Comments***

None

**Item 2. *Properties***

*Facilities.* Our customers market numerous products throughout the world and therefore need to access manufacturing services on a global basis. To enhance our EMS offerings, we seek to locate our facilities either near our customers and our customers' end markets in major centers for the electronics industry or, when appropriate, in lower cost locations. Many of our plants located near customers and their end markets are focused primarily on final system assembly and test, while plants located in lower cost areas are engaged primarily in higher volume, less complex component and subsystem manufacturing and assembly.

We continue to evaluate our global manufacturing operations and restructure our facilities and operations to bring our manufacturing capacity in line with demand and our manufacturing strategy and to provide cost efficient services for our customers. Through this process, we have closed certain facilities not required to satisfy current demand levels. We provide extensive operations in lower cost locations including Latin America, Eastern Europe, China and Southeast Asia and we plan to expand our presence in these lower cost locations as appropriate to meet the needs of our customers.

As of September 27, 2008, the approximate square footage of our manufacturing facilities by country was as follows:

	<b>Approximate Square Footage</b>
Brazil	261,000
Canada	635,845
China	2,009,536
Finland	262,004
Germany	354,090
Hong Kong	19,000
Hungary	592,388
India	28,500
Indonesia	99,198
Ireland	110,000
Israel	292,664
Japan	5,876
Malaysia	359,520
Mexico	1,924,315
Singapore	685,125
Sweden	58,000
Thailand	151,918
United Kingdom	30,000
United States	3,296,368
Total	<u>11,175,347</u>

In addition, we have 504,147 square feet (not included in the above figure) of non-manufacturing space that we are currently using. We also have manufacturing facilities (not included in the above figure) that are closed or in the process of closing as of September 27, 2008, which include facilities totaling approximately 1,131,858 square feet for domestic locations and approximately 1,727,351 square feet for international locations. We are currently undertaking an aggressive program to sublease or terminate leases for unused facilities and to sell owned properties that are no longer expected to serve our future needs.

As of September 27, 2008, our active manufacturing facilities consist of approximately 8.4 million square feet in facilities that we own, with the remainder in leased facilities under lease terms expiring between 2009 and 2036.

We believe our existing facilities are adequate to meet our reasonably foreseeable requirements. We regularly evaluate our expected future facilities requirements.

*Certifications and Registrations.* Certifications and registrations under industry standards are important to our business because many customers rely on them to confirm our adherence to manufacturing process and quality standards. Certain markets, such as telecommunications, medical, defense, aerospace and automotive, require adherence to industry-specific standards. Substantially all of our manufacturing facilities are registered under ISO 9001:2000, a standard published by the International Organization for Standardization. As part of the ISO 9001:2000 certification process, we have a highly developed quality management system and continually improve its effectiveness in accordance with its requirements. We use this registration to demonstrate our ability to consistently provide product that meets customer and applicable regulatory requirements and enhance customer satisfaction through its effective application. ISO 9001:2000 registration is of particular importance to our customers throughout the world.

In addition to ISO 9001:2000, most of our facilities are TL 9000 registered. The TL 9000 quality system requirements and quality system metrics are designed specifically for the telecommunications industry to promote consistency and efficiency, reduce redundancy and improve customer satisfaction. Included in the TL 9000 system are performance-based metrics that quantify reliability and quality performance of the product. The majority of our facilities are also Underwriters Laboratory compliant. These standards define requirements for quality, manufacturing process control and manufacturing documentation and are required by many OEMs in the communications sector of the electronics industry.

Our medical products division has identified certain manufacturing facilities to be centers of excellence for medical products manufacturing. These facilities are FDA and ISO 13485:2003 registered and fully compliant to the FDA's quality systems regulations.

Our defense and aerospace operations are headquartered in the Huntsville, Alabama area and are housed in a facility dedicated to meeting the specialized needs of our defense and aerospace customers. This Defense and Aerospace operation, as well as other selected operations around the world are AS9100 registered. The Defense and Aerospace operation is also certified under various U.S. military specifications as well as under ANSI and other standards appropriate for defense and aerospace suppliers.

Our automotive facilities are strategically located worldwide. Substantially all of our automotive facilities are ISO/TS 16949 registered and also certified under the Automotive Industry Standard.

### **Item 3. Legal Proceedings**

#### ***Stock Option Related Matters***

We are a so-called "nominal defendant" party to multiple stockholder derivative lawsuits that were filed following our June 9, 2006 announcement that we had initiated an internal inquiry into our historical stock option administration practices. In particular, five separate shareholder derivative actions have been filed and consolidated into a single proceeding pending in the United States District Court for the Northern District of California, captioned *In re Sanmina-SCI Corporation Derivative Litigation*, Master File No. C-06-3783-JF. The first of these consolidated actions was filed June 15, 2006. A consolidated complaint was filed on October 30, 2006. In addition, three related shareholder derivative actions have been filed and consolidated into a single proceeding pending in Superior Court for the State of California, County of Santa Clara, captioned *In re Sanmina-SCI Corporation Derivative Action*, Master File No. 1-06-CV-071786. A consolidated complaint was filed on August 17, 2007.

In all of these actions, the derivative plaintiffs allege that they are our stockholders and purport to bring the actions on our behalf and for our benefit. This is why we are a "nominal defendant" party to each of these actions; no relief is sought against us in these lawsuits and any recovery (net of any court award of attorneys' fees and costs to derivative plaintiffs' counsel) would belong to us. As previously disclosed, the list of defendants varies from action to action and includes 29 different current and former directors and officers of the Company. The derivative plaintiffs allege generally that the individual defendants manipulated the grant dates of our stock options between 1994 and 2006, allegedly in breach of duties owed to us and our shareholders, causing us to report our financial results inaccurately and resulting in harm to us. Plaintiffs seek money damages against the individual defendants, an accounting for damages allegedly caused by the individual defendants, disgorgement of profits allegedly improperly obtained by the defendants, and various other types of equitable and injunctive relief. In August 2006, our Board of Directors created a Special Litigation Committee and vested that committee with the full authority on our behalf to investigate the claims asserted by the derivative plaintiffs, and to determine what action should be taken with respect to the shareholder derivative actions including without limitation whether we should pursue claims against the named defendants or other persons. The Special Litigation Committee's investigation is substantially concluded although it has not yet issued a formal report. The parties conducted mediation in March 2008 and are engaged in discussions regarding an appropriate resolution of the litigations in light of the Special Litigation Committee's tentative conclusions. Although the stockholder derivative lawsuits do not seek damages or other relief against us, we do owe certain indemnification obligations to our current and former directors, officers and employees involved with the stock option-related proceedings, particularly to the extent that individuals are found not to have engaged in any wrongdoing.

Additionally, the Securities and Exchange Commission and the United States Attorney for the Northern District of California have been conducting investigations into our historical stock option administration practices. The Company has been informed that the Securities and Exchange Commission has closed its investigation. We continue to cooperate fully with the U.S. Attorney's investigation.

#### ***Non-US Proceedings***

A non-US governmental entity has made a claim for penalties against us asserting that we did not comply with bookkeeping rules in accordance with applicable tax regulations. We have provided documents that we believe demonstrate our compliance with these tax regulations. We have appealed the penalties in administrative court, and have not paid the penalties pending review by the court. The administrative court has not indicated when it will issue a decision. We believe we have a meritorious position in this matter and are contesting this claim vigorously.

## Other Proceedings

We are also subject to other routine legal proceedings, as well as demands, claims and threatened litigation, that arise in the normal course of our business. The ultimate outcome of any litigation is uncertain and unfavorable outcomes could have a negative impact on our results of operations and financial condition. Regardless of outcome, litigation can have an adverse impact on us as a result of incurrence of defense costs, diversion of management resources and other factors. We record liabilities for legal proceedings when a loss becomes probable and the amount of loss can be reasonably estimated.

### Item 4. Submission of Matters to a Vote of Security Holders

On September 29, 2008, we held a Special Meeting of Stockholders. The matter voted upon at the meeting by stockholders of record as of August 8, 2008 and the vote with respect to such matter are set forth below:

1. To approve an amendment to our restated certificate of incorporation to effect a reverse stock split of our common stock pursuant to which any whole number of outstanding shares between and including Three (3) and Ten (10) would be combined into one share of our common stock and to concurrently decrease the authorized number of shares of common stock on a proportional basis and to authorize our Board of Directors to select and file one such amendment.

For: 476,876,483      Against: 7,962,141      Abstain: 507,998      Broker Non-Votes: 0

## EXECUTIVE OFFICERS

The following table sets forth the name, position and age of our current executive officers and their ages as of September 30, 2008.

<u>Name</u>	<u>Age</u>	<u>Position</u>
Jure Sola	57	Chairman of the Board and Chief Executive Officer
Hari Pillai	48	President and Chief Operating Officer
David L. White	53	Executive Vice President of Finance and Chief Financial Officer
Michael Tyler	52	Executive Vice President, General Counsel and Corporate Secretary
Dennis Young	57	Executive Vice President of Worldwide Sales and Marketing

**Jure Sola** has served as our chief executive officer since April 1991, as chairman of our board of directors from April 1991 to December 2001 and from December 2002 to present, and co-chairman of our board of directors from December 2001 to December 2002. In 1980, Mr. Sola co-founded Sanmina and initially held the position of vice president of sales. In October 1987, he became our vice president and general manager, responsible for manufacturing operations and sales and marketing and was president from October 1989 to March 1996.

**Hari Pillai** joined us in 1994 and has served in manufacturing management positions since that time. In January 2002, Mr. Pillai was appointed president and general manager of our EMS division and in October 2004 was appointed president, global EMS operations. In October 2008, Mr. Pillai was promoted to President and Chief Operating Officer.

**David L. White** has served as our executive vice president of finance and chief financial officer since August 2004. Prior to joining us, he was senior vice president and chief financial officer of Asyst Technologies, a provider of integrated automation solutions that enhance semiconductor and flat-panel display (FPD) manufacturing productivity, from 2003 to 2004. Previously, he was president and chief executive officer of Candescant Technologies, a developer of field emission display (FED) technology for next-generation thin FPDs from 1995 to 2002.

**Michael Tyler** has served as our executive vice president and general counsel since April 2007. Mr. Tyler became our corporate secretary in June 2007. Prior to joining us, he was senior vice president, chief legal and administrative officer of Gateway, Inc., a major personal computer manufacturer, where he was employed from 2000-2007. Prior to that, he served as senior corporate counsel - International, at Northrop Grumman Corporation from 1995 to 2000, as an associate at the law firm Heller, Ehrman, White & McAuliffe from 1991 to 1995, and as a law clerk for the United States Court of Appeals for the Ninth Circuit from 1987 to 1988.

**Dennis Young** has served as executive vice president of worldwide sales and marketing since March 2003. Prior to joining us, Mr. Young was senior vice president of sales from May 2002 to March 2003 and vice president of sales from March 1998 to May 2002 of Pioneer-Standard Electronics, a provider of industrial and consumer electronic products.

## PART II

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

#### Market Information

Our common stock is traded on the NASDAQ National Market under the symbol SANM. The following table lists the high and low intra-day prices for our common stock as reported on NASDAQ.

<u>2008</u>	<u>High</u>	<u>Low</u>
First quarter	\$2.44	\$1.62
Second quarter	\$1.86	\$1.15
Third quarter	\$1.70	\$1.24
Fourth quarter	\$2.66	\$1.05

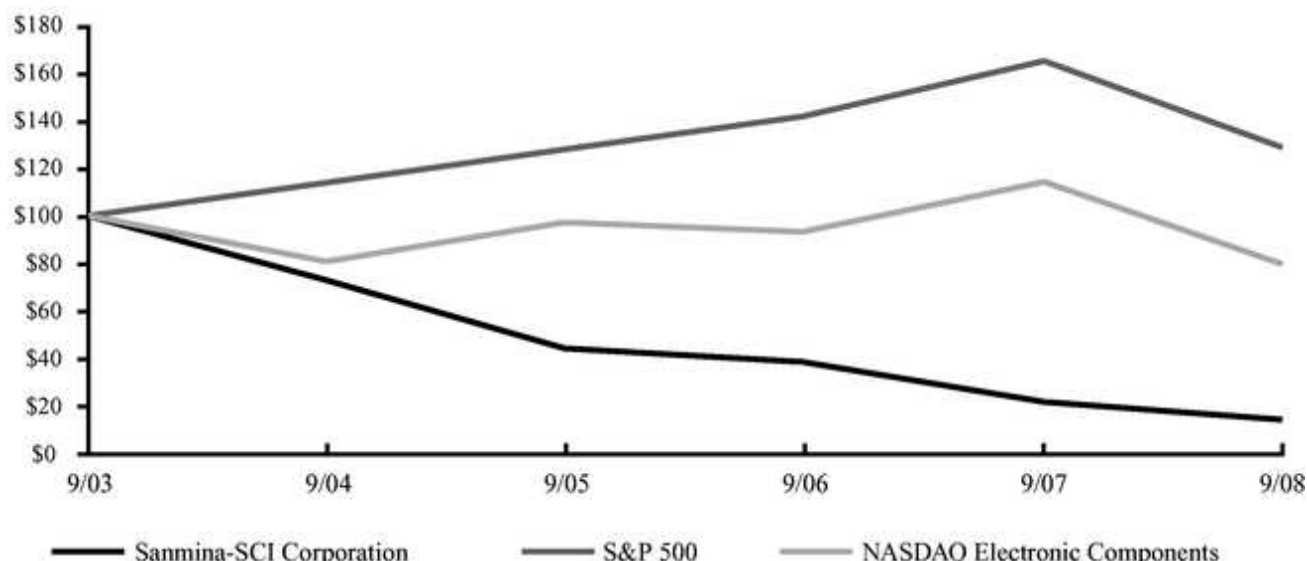
<u>2007</u>	<u>High</u>	<u>Low</u>
First quarter	\$4.44	\$3.42
Second quarter	\$3.94	\$3.24
Third quarter	\$3.88	\$3.13
Fourth quarter	\$3.31	\$1.88

As of November 14, 2008, we had approximately 2,074 common stockholders of record. On November 14, 2008, the last reported sales price of our common stock on the NASDAQ National Market was \$0.50 per share.

Refer to "Note 21—Subsequent Events" to the consolidated financial statements for information regarding our ability to effect a reverse stock split.

The graph below compares the cumulative 5-year total shareholder return on our common stock with the cumulative total returns of the S&P 500 index and the NASDAQ Electronic Components index. The graph tracks the performance of a \$100 investment in our common stock and in each of the indexes (with the reinvestment of all dividends) from 9/30/2003 to 9/30/2008.

**COMPARISON OF 5 YEAR CUMULATIVE TOTAL RETURN\***  
**Among Sanmina-SCI Corporation, The S&P 500 Index**  
**And The NASDAQ Electronic Components Index**



\* \$100 Invested on 9/30/03 in stock & index-including reinvestment of dividends. Fiscal year ending September 30.

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	9/03	9/04	9/05	9/06	9/07	9/08
<b>Sanmina-SCI Corporation</b>	100.00	72.98	44.41	38.72	21.95	14.49
<b>S&amp;P 500</b>	100.00	113.87	127.82	141.62	164.90	128.66
<b>NASDAQ Electronic Components</b>	100.00	80.82	97.22	93.26	114.21	79.72

*The stock price performance included in this graph is not necessarily indicative of future stock price performance*

## Dividends

We have never declared or paid cash dividends on our common stock. We currently expect to retain future earnings for use in the operation and expansion of our business and do not anticipate paying cash dividends in the foreseeable future. Additionally, the indentures governing our Senior Floating Rate Notes, 6.75% Senior Subordinated Notes and 8.125% Senior Subordinated Notes and the agreement governing our Senior Secured Credit Facility contain covenants that limit our ability to pay dividends; see also "Item 7—Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources."

## Item 6. Selected Financial Data

The following selected financial data should be read in conjunction with "Item 7—Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Item 8—Financial Statements and Supplementary Data," included elsewhere in this Form 10-K.

## FIVE YEAR SELECTED FINANCIAL HIGHLIGHTS

### Consolidated Statements of Operations Data:

	Year Ended				
	2008	2007	2006	2005	2004
	(In thousands, except per share data)				
Net sales	\$7,202,403	\$ 7,137,793	\$7,645,118	\$ 7,644,932	\$7,638,042
Operating income (loss)	(384,160)	(1,023,061)	28,537	(528,019)	3,633
Loss from continuing operations before income taxes, extraordinary gain and cumulative effect of accounting changes	(490,331)	(1,142,027)	(174,933)	(678,084)	(117,649)
Provision for (benefit from) income taxes	21,005	(534)	(10,638)	364,394	(9,822)
Extraordinary gain, net of tax	—	—	—	—	3,583
Cumulative effect of accounting changes, net of tax	—	—	2,830	—	—
Loss from continuing operations	(511,336)	(1,141,493)	(161,465)	(1,042,478)	(104,244)
Income from discontinued operations, net of tax	24,987	6,836	19,908	8,532	52,615
Net Loss	<u>\$ (486,349)</u>	<u>\$ (1,134,657)</u>	<u>\$ (141,557)</u>	<u>\$ (1,033,946)</u>	<u>\$ (51,629)</u>
Basic and diluted earnings (loss) per share:					
Continuing operations					
Loss before cumulative effect of accounting changes	\$ (0.96)	\$ (2.17)	\$ (0.31)	\$ (2.00)	\$ (0.21)
Cumulative effect of accounting changes	—	—	—	—	—
Loss from continuing operations per share	\$ (0.96)	\$ (2.17)	\$ (0.31)	\$ (2.00)	\$ (0.21)
Discontinued operations earnings per share	\$ 0.05	\$ 0.01	\$ 0.04	\$ 0.02	\$ 0.10
Net loss per share	\$ (0.92)	\$ (2.15)	\$ (0.27)	\$ (1.99)	\$ (0.10)
Shares used in computing basic and diluted per share amount	530,721	527,117	525,967	520,574	515,803

### Consolidated Balance Sheet Data:

	As of Year Ended				
	2008	2007	2006	2005	2004
	(In thousands)				
Cash and cash equivalents	\$ 869,801	\$ 933,424	\$ 491,829	\$1,068,053	\$1,069,447
Net working capital	\$1,574,339	\$1,618,375	\$1,516,754	\$1,672,481	\$1,422,972
Total assets	\$3,513,973	\$4,669,955	\$5,862,430	\$6,269,128	\$7,542,460
Long-term debt	\$1,481,985	\$1,588,072	\$1,507,112	\$1,666,768	\$1,297,337
Stockholders' equity	\$ 695,958	\$1,173,147	\$2,270,563	\$2,383,811	\$3,360,993



## **Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations**

*This report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These statements relate to our expectations for future events and time periods. All statements other than statements of historical fact are statements that could be deemed to be forward-looking statements, including any statements regarding trends in future sales or results of operations, gross margin or operating margin, expenses, earnings or losses from operations, synergies or other financial items; any statements of the plans, strategies and objectives of management for future operations; any statements concerning developments, performance or industry ranking; any statements regarding future economic conditions or performance; any statements regarding pending investigations, claims or disputes; any statements of expectation or belief; and any statements of assumptions underlying any of the foregoing. Generally, the words "anticipate," "believe," "plan," "expect," "future," "intend," "may," "will," "should," "estimate," "predict," "potential," "continue" and similar expressions identify forward-looking statements. Our forward-looking statements are based on current expectations, forecasts and assumptions and are subject to risks, uncertainties and changes in condition, significance, value and effect. As a result of the factors described herein, and in the documents incorporated herein by reference, including, in particular, those factors described under "Factors Affecting Operating Results," we undertake no obligation to publicly disclose any revisions to these forward-looking statements to reflect events or circumstances occurring subsequent to filing this report with the Securities and Exchange Commission.*

### **Overview**

We are a leading independent global provider of customized, integrated electronics manufacturing services, or EMS. Our revenue is generated from sales of our services primarily to original equipment manufacturers, or OEMs, in the communications; enterprise computing and storage; multimedia; industrial and semiconductor capital equipment; defense and aerospace; medical and automotive industries.

We recently exited our PC and associated logistics services business ("PC Business"). Our PC Business serviced three customers, one of whom transitioned its business during 2008 to a new third-party contract manufacturing provider as a result of our decision to exit the PC Business. The remaining portion of our PC Business was sold in two separate transactions, one of which closed on June 2, 2008 and the other of which closed on July 7, 2008.

We have reflected our PC Business as discontinued operations in the consolidated financial statements for all periods presented. The sale of our PC Business will materially reduce our cash flows. See note 20 of the notes to consolidated financial statements for further information regarding the PC Business sale.

Unless noted otherwise, all references in this section to our operating results pertain only to our continuing operations and all references to years refer to our fiscal years ending on the last Saturday of each year closest to September 30th.

A relatively small number of customers have historically generated a significant portion of our net sales. Sales to our ten largest customers represented 48.2%, 48.4%, and 49.7% of our net sales for 2008, 2007, and 2006, respectively. For 2008 and 2006, no customer represented 10% or more of our net sales. For 2007, one customer represented 10.4% of our net sales.

We typically generate a significant portion of our net sales from international operations. Consolidated net sales generated from non-U.S. operations were 69.7%, 65.9%, and 65.9% for 2008, 2007 and 2006, respectively. The concentration of international operations has resulted primarily from overseas acquisitions and a desire on the part of many of our customers to move production to lower

cost locations in regions such as Asia, Latin America and Eastern Europe. We expect this trend to continue.

Historically, we have had substantial recurring sales from existing customers. We typically enter into supply agreements with our major OEM customers. These agreements generally have terms ranging from three to five years and cover the manufacture of a range of products. Under these agreements, a customer typically agrees to purchase its requirements for particular products in particular geographic areas from us. These agreements generally do not obligate the customer to purchase minimum quantities of products. In some circumstances, our supply agreements with customers provide for cost reduction objectives during the term of the agreement.

We have experienced fluctuations in gross margins and in our results of operations in the past and may continue to experience such fluctuations in the future. Fluctuations in our gross margins may be caused by a number of factors, including pricing, changes in product mix, competitive pressures, transition of manufacturing to lower cost locations, level of operational efficiencies and overall business levels.

During 2008, we recorded a goodwill impairment charge of \$478.7 million due to the expected effect of deteriorating general economic conditions on our future cash flows, the illiquidity of credit markets and the decline in the stock market generally, and in our stock price in particular.

### *Summary Results of Operations*

The following table presents our key operating results:

	<u>September 27, 2008</u>	<u>Year Ended</u>	
		<u>September 29, 2007</u>	<u>September 30, 2006</u>
		(In thousands)	
Net sales	\$ 7,202,403	\$ 7,137,793	\$ 7,645,118
Gross profit	\$ 524,106	\$ 454,516	\$ 536,141
Operating income (loss)	\$ (384,160)	\$ (1,023,061)	\$ 28,537
Loss from continuing operations	\$ (511,336)	\$ (1,141,493)	\$ (161,465)
Income from discontinued operations, net of tax	\$ 24,987	\$ 6,836	\$ 19,908
Net loss	\$ (486,349)	\$ (1,134,657)	\$ (141,557)

### *Key performance measures*

The following table presents certain key performance measures that management utilizes to assess operating performance:

	<u>Three Months Ended</u>				
	<u>September 27, 2008</u>	<u>June 28, 2008</u>	<u>March 29, 2008</u>	<u>December 29, 2007</u>	<u>September 29, 2007</u>
Days sales outstanding(1)	51	51	51	53	55
Inventory turns(2)	7.7	7.8	7.1	6.7	6.9
Accounts payable days(3)	52	49	51	57	50
Cash cycle days(4)	46	48	51	50	57

The key performance measures in the above table were calculated using sales, cost of sales, accounts receivable, net; inventories and accounts payable relating only to our continuing operations

(see Note 20). We believe this method of calculation is appropriate since it excludes the impact of discontinued operations and provides a more meaningful measure of our continuing operations.

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- (1) Days sales outstanding, or DSO, is calculated as the ratio of ending accounts receivable, net, to average daily net sales for the quarter.
- (2) Inventory turns (annualized) are calculated as the ratio of four times our cost of sales for the quarter to inventory at period end.
- (3) Accounts payable days is calculated as the ratio of 365 days divided by accounts payable turns, in which accounts payable turns is calculated as the ratio of four times our cost of sales for the quarter to accounts payable at period end.
- (4) Cash cycle days is calculated as the ratio of 365 days to inventory turns, plus days sales outstanding minus accounts payable days.

### **Critical Accounting Policies and Estimates**

Management's discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements which have been prepared in accordance with accounting principles generally accepted in the United States. We review the accounting policies used in reporting our financial results on a regular basis. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, net sales and expenses and related disclosure of contingent assets and liabilities. On an ongoing basis, we evaluate the process used to develop estimates for certain reserves and contingent liabilities, including those related to product returns, accounts receivable, inventories, investments, intangible assets, income taxes, warranty obligations, environmental matters, restructuring, contingencies and litigation. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Our actual results may differ materially from these estimates.

We believe the following critical accounting policies reflect the more significant judgments and estimates used by us in preparing our consolidated financial statements:

*Accounts Receivable and Other Related Allowances*— We estimate uncollectible accounts, product returns and other adjustments related to current period net sales to establish related allowances. In making these estimates, we analyze the creditworthiness of our customers, past experience, changes in customer demand, and the overall economic climate in industries that we serve. If actual uncollectible accounts, product returns or other adjustments differ significantly from our estimates, the amount of sales or operating expenses we report would be affected. One of our most significant credit risks is the ultimate realization of our accounts receivable. This risk is mitigated by (i) a significant portion of our sales are to well-established companies, (ii) ongoing credit evaluation of our customers, and (iii) frequent contact with our customers, especially our most significant customers, which enables us to monitor changes in their business operations and to respond accordingly. To establish our allowance for doubtful accounts, we estimate the credit risk associated with accounts receivable. We evaluate credit risk related to specific customers based on the current economic environment; however, we are not able to predict the inability of our customers to meet their financial obligations to us. We believe the allowances that we have established are adequate under the circumstances; however, a change in the economic environment or a customer's financial condition could cause our estimates of allowances, and consequently the provision for doubtful accounts, to change, which could have a significant adverse impact on our financial position and/or results of operations. To establish the allowance for product returns and other adjustments, we primarily utilize data regarding historical adjustments.

*Inventories*— We state inventories at the lower of cost (first-in, first-out method) or market value. Cost includes material, labor and manufacturing overhead incurred for finished goods and work-in-process. We regularly evaluate the carrying value of our inventories. Provisions are made to reduce excess and obsolete inventories to their estimated net realizable values. The ultimate realization of inventory carrying amounts is affected by changes in customer demand for inventory that customers are not contractually obligated to purchase and raw materials held for specific customers who are experiencing financial difficulties. Inventory reserves are established based on forecasted demand, past experience with specific customers, the ability to redistribute inventory to other programs or back to our suppliers, and whether customers are contractually obligated to pay for the related inventory. Prepayments received from customers for excess and obsolete inventories that have not been shipped to customers or otherwise disposed of are netted against inventory.

We procure inventory based on specific customer orders and forecasts. Customers have limited rights of modification with respect to these orders. Correspondingly, customer modifications to orders affecting inventory previously procured by us (for example, cancellations or rescheduling of orders, as well as inventory that is highly customized and therefore not available for use by other customers) and our purchases of inventory beyond customer needs may result in excess and obsolete inventory for the related customers. Although we may be able to use some excess components and raw materials for other products we manufacture, a portion of the cost of this excess inventory may not be returned to the vendors or recovered from customers. Write-offs or write-downs of inventory could relate to:

- declines in the market value of inventory;
- raw materials held for specific customers who are experiencing financial difficulty; and
- changes in customer demand for inventory, such as cancellation of orders and our purchases of inventory beyond customer needs that result in excess quantities on hand that we are not able to return to the vendor or charge back to the customer.

Our practice is to dispose of excess and obsolete inventory as soon as practicable after such inventory has been identified as having no value to us.

*Restructuring Costs*— We recognize restructuring costs resulting from excess manufacturing or administrative facilities that we choose to close or consolidate, as well as from other exit activities. In connection with our exit activities, we record restructuring charges for employee termination costs, long-lived asset impairments, costs related to leased facilities to be abandoned or subleased, and other exit-related costs. These charges are incurred pursuant to formal plans developed by management and accounted for in accordance with SFAS No. 146, *"Accounting for Costs Associated with Exit or Disposal Activities"*, and EITF 95-3, *"Recognition of Liabilities in Connection with a Purchase Business Combination"*. When applicable, employee termination costs are recorded pursuant to SFAS No. 112, *"Employer's Accounting for Postemployment Benefits"*. Pursuant to SFAS No. 112, restructuring costs related to employee severance are recorded when probable and estimable. Fixed assets that are written off or impaired as a result of restructuring plans are typically held for sale or scrapped. The recognition of restructuring charges requires our management to make judgments and estimates regarding the nature, timing, and amount of costs associated with the planned exit activity, including estimating sublease income and the fair value, less selling costs, of property, plant and equipment to be disposed of. Estimates of future liabilities may change, requiring us to record additional restructuring charges or reduce the amount of liabilities already recorded. At the end of each reporting period, we evaluate the remaining accrued balances to ensure their adequacy, that no excess accruals are retained, and that the utilization of the provisions are for their intended purposes in accordance with developed exit plans. In the event circumstances change and the provision is no longer required, the provision is reversed.

*Goodwill*— Costs in excess of the fair value of tangible and other intangible assets acquired and liabilities assumed in a purchase business combination are recorded as goodwill. SFAS No. 142,

"*Goodwill and Other Intangible Assets*", requires that companies not amortize goodwill, but instead test for impairment at least annually. We adopted SFAS No. 142 on September 30, 2001 and have evaluated goodwill on an annual basis and whenever events and changes in circumstances suggest that the carrying amount may not be recoverable. Impairment of goodwill is tested at the reporting unit level by comparing the reporting unit's carrying amount, including goodwill, to the fair value of the reporting unit. The fair values of the reporting units are estimated using a combination of the income, or discounted cash flows, approach and the market approach, which utilizes comparable companies' data. If the carrying amount of the reporting unit exceeds its fair value, goodwill is considered impaired and a second step is performed to measure the amount of impairment loss.

The preparation of the goodwill impairment analysis requires management to make significant estimates and assumptions with respect to the determination of fair values of reporting units and tangible and intangible assets. These estimates and assumptions may differ significantly from period to period. Estimates and assumptions include our operating forecasts; revenue growth rates, which are based primarily on data published by industry analysts; risk-commensurate discount rates; market multiples of revenue and earnings, which are based on published data for our competitors; customer retention rates and return on assets. Third party valuation experts are engaged to assess the reasonableness of our assumptions and to perform certain portions of our goodwill impairment analysis.

*Tangible and Other Intangible Assets* —We review long-lived tangible and other intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset or asset group may not be recoverable in accordance with SFAS No. 144 "*Accounting for the Impairment or Disposal of Long-Lived Assets*". An asset is considered impaired if its carrying amount exceeds the undiscounted future net cash flow the asset is expected to generate. If an asset or asset group is considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the asset exceeds its fair value. For asset groups for which a building is the primary asset, we estimate fair value primarily based on data received from commercial real estate brokers. For other assets, we estimate fair value based on projected discounted future net cash flows using a discount rate reflecting our weighted-average cost of capital. Management applies significant judgment in estimating future cash flows and in determining our weighted-average cost of capital.

*Income Taxes*— We estimate our income tax provision or benefit in each of the jurisdictions in which we operate, including estimating exposures related to examinations by taxing authorities. We believe that our accruals for tax liabilities are adequate for all open years, based on our assessment of many factors, including past experience and interpretations of tax law applied to the facts of each matter. Although we believe our accruals for tax liabilities are reasonable, tax regulations are subject to interpretation and the tax controversy process is inherently lengthy and uncertain; therefore, our assessments can involve both a series of complex judgments about future events and rely heavily on estimates and assumptions. To the extent that the probable tax outcome of these matters changes, such changes in estimates will impact the income tax provision in the period in which such determination is made.

We must also make judgments regarding the realizability of deferred tax assets. The carrying value of our net deferred tax assets is based on our belief that it is more likely than not that we will generate sufficient future taxable income in certain jurisdictions to realize these deferred tax assets. A valuation allowance has been established for deferred tax assets which we do not believe meet the "more likely than not" criteria established by SFAS No. 109, "*Accounting for Income Taxes*". Our judgments regarding future taxable income may change due to changes in market conditions or tax laws, tax planning strategies or other factors. If our assumptions, and consequently our estimates, change in the future, the valuation allowances we have established may be increased or decreased, resulting in a respective increase or decrease in income tax expense. Our effective tax rate is highly dependent upon the geographic distribution of our worldwide earnings or losses, the tax regulations and tax holidays in

each geographic region, the availability of tax credits and carryforwards, and the effectiveness of our tax planning strategies.

We adopted Financial Accounting Standards Board ("FASB") Interpretation No. 48, *Accounting for Uncertainty in Income Taxes—an interpretation of FASB Statement No. 109*, ("FIN 48"), on the first day of 2008. FIN 48 is an interpretation of FASB Statement 109, "Accounting for Income Taxes", and it seeks to reduce the diversity in practice associated with certain aspects of measurement and recognition in accounting for income taxes. FIN 48 prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position that an entity takes or expects to take in a tax return. Additionally, FIN 48 provides guidance on de-recognition, classification, interest and penalties, accounting in interim periods, disclosures, and transition. Under FIN 48, an entity may only recognize or continue to recognize tax positions that meet a "more likely than not" threshold. In accordance with our accounting policy, we recognize interest and penalties related to unrecognized tax benefits as a component of tax expense. This policy did not change as a result of our adoption of FIN 48.

## Results of Operations

*Years Ended September 27, 2008, September 29, 2007 and September 30, 2006.*

The following table presents certain statements of operations data expressed as a percentage of net sales.

	September 27, 2008	Year Ended September 29, 2007 (In percentage)	September 30, 2006
Net sales	100.0	100.0	100.0
Cost of sales	92.7	93.6	93.0
Gross margin	7.3	6.4	7.0
Operating expenses:			
Selling, general and administrative	4.4	5.0	4.6
Restructuring costs	1.1	0.6	1.1
Research and development	0.3	0.4	0.5
Impairment of goodwill, tangible and other intangible assets	6.7	14.6	0.2
Amortization of intangible assets	0.1	0.1	0.1
In-process research and development	—	—	0.1
Total operating expenses	12.6	20.7	6.6
Operating income (loss)	(5.3)	(14.3)	0.4
Interest income	0.3	0.4	0.3
Interest expense	(1.8)	(2.4)	(1.7)
Other income (expense), net	—	0.3	(0.2)
Loss on extinguishment of debt	—	—	(1.1)
Interest and other (expense), net	(1.5)	(1.7)	(2.7)
Loss from continuing operations before income taxes and cumulative effect of accounting changes	(6.8)	(16.0)	(2.3)
Provision for income taxes	0.3	—	(0.1)
Loss from continuing operations before cumulative effect of accounting changes	(7.1)	(16.0)	(2.2)
Cumulative effect of accounting changes, net of tax	—	—	—
Loss from continuing operations	(7.1)	(16.0)	(2.2)
Income from discontinued operations, net of tax	0.3	0.1	0.3
Net loss	(6.8)	(15.9)	(1.9)

## *Net Sales*

Net sales for 2008 increased 0.9% to \$7.20 billion, from \$7.14 billion in 2007. The increase was primarily related to stronger demand from customers in our communications and defense and aerospace end-markets, which increased by \$141.9 million and \$106.1 million, respectively. These increases were partially offset by reduced demand of \$101.8 million in our high-end computing end-market, \$36.8 million in our industrial and semiconductor capital equipment end-market and \$26.3 million in our medical end-market.

Net sales in 2007 decreased 6.6% to \$7.14 billion from \$7.65 billion in 2006. Approximately \$400 million of the decrease related to the high-end computing end market and resulted from our exit of the original design manufacturer ("ODM") business at the end of the first quarter of 2007 and a delay in demand due to a customer merger. Additionally, \$400 million of the decrease related to our communications end-market and resulted from reduced orders from three customers. These decreases were partially offset by increases of \$100 million from our medical end market, \$82 million from our defense and aerospace end-market and \$58 million from our multi-media end-market.

## *Gross Margin*

Gross margin was 7.3%, 6.4% and 7.0% in 2008, 2007 and 2006, respectively. The increase from 2007 to 2008 was due primarily to higher margins in our defense and aerospace business resulting from increased demand and favorable changes in product mix to more proprietary products and in our printed circuit board fabrication business resulting from the consolidation of capacity and greater efficiencies. In addition, margins improved in our other EMS divisions as a result of improved operating efficiencies, somewhat offset by decreased revenue, primarily in our high-end computing end-market, and factory start-up and production transition costs. The decrease from 2006 to 2007 was primarily a result of weak demand in our communications and high-end computing end markets that significantly impacted sales in our printed circuit board fabrication business, enclosures business and new product introduction/gateway business. Lower demand in these higher margin businesses had a larger than proportional impact on our profitability. In addition, the decrease was partially due to operational inefficiencies in our enclosures business. These negative effects were partially offset by a reduction in losses associated with our ODM business which we restructured late in 2006. We expect gross margins to continue to fluctuate in the future.

Fluctuations in our gross margins may be caused by a number of factors, including:

- Greater competition in EMS and pricing pressures from OEMs due to greater focus on cost reduction;
- Changes in the overall volume of our business;
- Changes in the mix of high and low margin products demanded by our customers;
- Changes in customer demand and sales volumes, including demand for our vertically integrated key system components and subassemblies;
- Provisions for excess and obsolete inventory that we are not able to charge back to a customer or sales of inventories previously written down;
- Operational inefficiencies;
- Pricing pressure on electronic components resulting from economic conditions in the electronics industry, with EMS companies competing more aggressively on cost to obtain new or maintain existing business; and
- Our ability to transition manufacturing and assembly operations to lower cost regions in an efficient manner.

We have experienced fluctuations in gross margin in the past and may continue to do so in the future.

#### *Selling, General and Administrative*

Selling, general and administrative expenses were \$317.0 million, \$355.8 million and \$351.0 million for 2008, 2007 and 2006, respectively. As a percentage of net sales, selling, general and administrative expenses were 4.4% for 2008, 5.0% for 2007, and 4.6% for 2006. The decrease in absolute dollars from 2007 to 2008 was primarily attributable to reduced personnel-related costs of \$15.8 million resulting from staffing reductions in various functions, a reduction of \$7.0 million for information technology infrastructure and related spending, reduced expenses of \$6.1 million in connection with matters arising out of our stock option investigation and restatement, a reduction of \$5.5 million in stock-based compensation expense and a reduction of \$4.0 million in audit and Sarbanes-Oxley related expenses. The decrease in selling, general and administrative expenses as a percentage of sales was primarily attributable to decreased expenses as noted above and higher net sales for 2008.

The increase in absolute dollars from 2006 to 2007 was primarily attributable to an increase in stock-based compensation expense of \$6.5 million resulting primarily from a change in our estimated forfeiture rate and an increase in bad debt provisions of \$4.2 million (\$1.7 million of expense in 2007 compared to a \$2.5 million recovery in 2006), partially offset by reductions due to cost saving initiatives. The increase in selling, general and administrative expenses as a percentage of sales was primarily attributable to increased expenses as noted above and lower net sales for 2007.

#### *Research and Development*

Research and development expenses were \$19.5 million, \$30.1 million and \$40.2 million for 2008, 2007 and 2006, respectively. As a percentage of net sales, research and development expenses were 0.3% for 2008, 0.4% for 2007, and 0.5% for 2006. The decrease in both dollars and as a percentage of net sales from 2007 to 2008 was primarily a result of our decision to reduce ODM activities and to focus on joint development activities, partially offset by increased spending for our defense and aerospace business to support anticipated growth in this end-market. The decrease in both dollars and as a percentage of net sales from 2006 to 2007 was primarily a result of our decision to reduce ODM activities and to focus on joint development activities.

#### *Impairment of Goodwill, Tangible and Other Intangible Assets*

During 2008, our annual impairment test performed in July did not result in impairment of goodwill. However, in September, due to the expected effect of deteriorating general economic conditions on our future cash flows, the illiquidity of the credit markets and the decline in the stock market generally, and in our stock price in particular, we performed another goodwill impairment test. Based on the results of our second test, we recorded an impairment charge of \$478.7 million.

During 2008, we also recorded an impairment charge of \$5.0 million associated primarily with decreases in the fair value of certain assets held for sale.

During 2007, we recorded a goodwill impairment charge of \$1.0 billion due to a decline in sales, both domestically and internationally, a decrease in expected future cash flows, and a decline in our stock price.

During 2006, we recorded a goodwill impairment charge of \$3.8 million and a tangible and intangible assets impairment charge of \$9.0 million due to our decision to reduce our ODM activities and to focus on joint development manufacturing opportunities. In addition, we recorded an impairment of tangible assets of \$6.1 million related to a manufacturing facility as a result of our SFAS No. 144 impairment analysis.



## Restructuring Costs

Costs associated with restructuring activities, other than those activities related to business combinations, are accounted for in accordance with SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities", or SFAS No. 112, "Employers' Accounting for Postemployment Benefits", as applicable. Pursuant to SFAS No. 112, restructuring costs related to employee severance are recorded when probable and estimable based on our policy with respect to severance payments. For all other restructuring costs, a liability is recognized in accordance with SFAS No. 146 only when incurred. Costs associated with restructuring activities related to business combinations are accounted for in accordance with EITF 95-3, "Recognition of Liabilities in Connection with a Purchase Business Combination".

During 2007, we incurred restructuring costs associated with various restructuring programs. Due to the immateriality of the remaining accrual balances related to programs implemented in prior years, all programs have been combined for disclosure purposes.

Below is a summary of restructuring costs associated with facility closures and other consolidation efforts for the periods indicated:

	Employee Termination / Severance and Related Benefits Cash	Leases and Facilities Shutdown and Consolidation Costs Cash (In thousands)	Impairment of Fixed Assets or Redundant Fixed Assets Non-Cash	Total
Balance at October 1, 2005	\$ 15,852	\$ 14,466	\$ —	\$ 30,318
Charges to operations	77,582	10,755	2,883	91,220
Charges utilized	(66,556)	(14,957)	(2,883)	(84,396)
Reversal of accrual	(5,529)	(460)	—	(5,989)
Balance at September 30, 2006	21,349	9,804	—	31,153
Charges (recovery) to operations	35,169	11,195	(831)	45,533
Charges recovered (utilized)	(47,873)	(12,132)	831	(59,174)
Reversal of accrual	(2,505)	(441)	—	(2,946)
Balance at September 29, 2007	6,140	8,426	—	14,566
Charges to operations	64,126	16,519	2,456	83,101
Charges utilized	(45,248)	(19,765)	(2,456)	(67,469)
Reversal of accrual	(833)	(892)	—	(1,725)
Balance at September 27, 2008	\$ 24,185	\$ 4,288	\$ —	\$ 28,473

During 2008, we closed or consolidated four facilities and recorded restructuring charges for employee termination benefits for approximately 2,900 employees.

During 2007, we closed or consolidated eight facilities and terminated approximately 6,700 employees. In 2006, we initiated the closure or consolidation of three facilities and recorded restructuring charges related to employee termination benefits for approximately 12,000 employees.

Accrued restructuring costs as of September 27, 2008 were \$34.1 million, of which \$28.5 million relates to restructuring actions related to our continuing operations and \$5.6 million relates to restructuring actions related to our discontinued operations. Of these amounts, \$32.8 million was included in accrued liabilities and \$1.3 million was included in other long-term liabilities on the consolidated balance sheet. In connection with restructuring actions we have already implemented under our restructuring plan, we expect to pay remaining facilities related restructuring liabilities of \$4.3 million through 2010, and the majority of severance costs of \$29.8 million through 2009.

The recognition of restructuring charges requires us to make judgments and estimates regarding the nature, timing and amount of costs associated with the planned exit activities, including estimating

sublease income and the fair values, less selling costs, of property, plant and equipment to be disposed of. Our estimates of future liabilities may change, requiring us to record additional restructuring charges or reduce the amount of liabilities already recorded.

### *Interest Income and Expense*

Interest income was \$19.7 million, \$28.8 million and \$19.4 million in 2008, 2007 and 2006, respectively. The decrease from 2007 to 2008 was primarily attributable to lower interest rates on invested cash and lower average cash balances in 2008 due to the fact that we borrowed \$600.0 million during the first quarter of 2007 to fund the repayment of certain debt obligations that matured in the second quarter of 2007. Of the amount borrowed, \$532.9 million was distributed to a Trustee and held in an escrow account until repayment of the debt. We earned interest while the cash was held in escrow. The increase in interest income from 2006 to 2007 was primarily attributable to the interest earned in 2007 on cash held in escrow as noted above.

Interest expense was \$127.2 million, \$168.3 million and \$121.8 million in 2008, 2007 and 2006, respectively. The decrease from 2007 to 2008 was primarily attributable to the absence of interest expense in 2008 on the \$600 million unsecured term loan that was outstanding in the first quarter of 2007 and repaid during the third quarter of 2007, decreased weighted average borrowings against our revolving credit facility during 2008, the absence of interest expense in 2008 on our 3% Notes that were repaid during the second quarter of 2007, and lower interest rates during 2008. These decreases were partially offset by higher interest expense incurred in 2008 on the two \$300 million senior floating rate notes issued during the third quarter of 2007 (collectively, the "Senior Floating Rate Notes").

The increase in interest expense from 2006 to 2007 is primarily attributable to the \$600 million unsecured term loan we entered into and simultaneously drew down on October 13, 2006, and subsequently repaid during the third quarter of 2007, interest expense from increased weighted average borrowings against our revolving credit facility during 2007, higher interest expense due to the interest rate swap on our 6.75% Notes and the Senior Floating Rate Notes issued during the third quarter of 2007, partially offset by a decrease in interest expense from the refinancing of the 10.375% Notes with the 8.125% Notes during the second quarter of 2006 and a full discharge of our 3% Notes during the second quarter of 2007.

### *Other Income (Expense), net*

Other income (expense), net was \$3.6 million, \$23.7 million and \$(16.5) million in 2008, 2007 and 2006, respectively. The following table summarizes the major components of other income (expense), net (in millions):

	Year Ended		
	September 27, 2008	September 29, 2007	September 30, 2006
Foreign exchange gains (losses)	\$ 3.5	\$ 2.0	\$ (3.9)
Interest rate swap losses	—	—	(9.0)
Gain from fixed asset disposals	0.3	19.0	0.6
Gain (loss) from investments	(0.5)	2.1	(2.8)
Other, net	0.3	0.6	(1.4)
Total	<u>\$ 3.6</u>	<u>\$ 23.7</u>	<u>\$ (16.5)</u>

The decrease in other income (expense), net, from \$23.7 million in 2007 to \$3.6 million in 2008 was primarily attributable to the recognition in 2007 of \$16.5 million in gains from the sale of previously restructured manufacturing facilities and equipment and a \$2.5 million gain from the sale of one of our manufacturing operations.

The increase in other income (expense), net, from \$(16.5) million in 2006 to \$23.7 million in 2007 was primarily attributable to the gains recorded in 2007 from the sale of previously restructured manufacturing facilities and equipment and from the sale of one of our manufacturing operations as noted in the above paragraph. Also, in the second quarter of 2006, we terminated our interest rate swap upon redemption of the 10.375% Notes, and there was no similar interest rate swap loss during 2007.

#### *Loss on Extinguishment of Debt*

During 2008, we redeemed \$120 million of our Senior Floating Rate Notes due in 2010. In connection with this redemption, \$2.2 million of unamortized debt issuance costs were expensed.

On June 12, 2007, we used the net proceeds from the sale of Senior Floating Rate Notes, together with cash on hand, to repay in full the principal amount and accrued interest on our existing Senior Unsecured Term Loan. We recorded a loss on extinguishment of debt of \$3.2 million, representing unamortized debt issuance costs, in the second quarter of 2007.

On February 15, 2006, we issued \$600 million aggregate principal amount of our 8.125% Notes. In connection with the debt issuance, we also made a cash tender offer for the redemption of all of our outstanding 10.375% Notes. The 10.375% Notes were redeemed in full. As a result of the redemption, we recorded a loss on extinguishment of debt of \$84.6 million in 2006. The loss consisted of \$70.8 million of redemption premium, \$2.2 million related to interest rate swap termination, \$13.9 million in unamortized debt issuance costs and \$0.9 million of tender offer expenses, offset by a \$3.2 million gain from previously terminated interest rate swaps. The tender offer was financed by net proceeds from the 8.125% Notes offering and \$263.8 million of existing cash.

#### *Provision for (Benefit from) Income Taxes*

Our effective tax rate (benefit) on loss from continuing operations was 4.3% for 2008, (0.1)% for 2007 and (6.1)% for 2006. Our effective tax rate for 2008 was substantially higher than the federal statutory benefit rate of (35.0)% primarily due to the non-deductibility of our goodwill impairment, foreign income that is taxed at rates higher than the federal statutory rate, and tax on dividends and other foreign income deemed includable in the U.S.

The effective tax rate for 2007 was substantially higher than the federal statutory rate primarily due the non-deductibility of our goodwill impairment and, to a lesser extent, an increase in our valuation allowance on future tax benefits.

The effective tax rate for 2006 was substantially higher than the federal statutory rate due to tax on dividends and other foreign income deemed includable in the U.S. and an increase in our valuation allowance on future tax benefits due to continuing losses, partially offset by a favorable income tax adjustment of \$39.0 million relating to previously accrued income taxes that were reversed as a result of a settlement reached with the U.S. Internal Revenue Service and the expiration of statutes of limitations. The settlement was in relation to certain U.S. tax audits. The total adjustment to previously accrued income taxes was \$105.6 million, of which \$39.0 million was recorded as an income tax benefit to earnings during 2006 and \$66.6 million was recorded as an adjustment to goodwill for tax items associated with an acquired entity.

#### *Cumulative Effect of Accounting Changes, Net of Tax*

Cumulative effect of accounting changes, net of tax, was a net benefit of \$2.8 million in 2006, which resulted from our adoption of SFAS No. 123R and Financial Accounting Standards Board Interpretation ("FIN") No. 47 during 2006. During 2006, we accrued \$5.3 million of asset retirement obligations in connection with the adoption of FIN No. 47, of which \$2.9 million was recorded as a cumulative effect of accounting change, net of tax. In addition, a one-time, non-cash benefit of \$5.7 million for estimated future forfeitures of stock-based awards was recorded in connection with the

implementation of SFAS No. 123R and reported as a cumulative effect of accounting change, net of tax.

## Liquidity and Capital Resources

	Year Ended		
	September 27, 2008	September 29, 2007	September 30, 2006
	(In thousands)		
<b>Net cash provided by (used in):</b>			
Operating activities	\$ 39,265	\$ 485,934	\$ (338,161)
Investing activities	11,383	(16,864)	(82,310)
Financing activities	(120,000)	(43,772)	(144,059)
Effect of exchange rate changes	5,729	16,297	(11,694)
Increase (decrease) in cash and cash equivalents	<u>\$ (63,623)</u>	<u>\$ 441,595</u>	<u>\$ (576,224)</u>

Cash and cash equivalents were \$869.8 million at September 27, 2008 and \$933.4 million at September 29, 2007. Our cash levels vary during any given quarter depending on the timing of customer collections and supplier payments, the extent of sales of receivables, borrowings under our revolving credit agreement and other factors.

Net cash provided by (used in) operating activities was \$39.3 million, \$485.9 million and \$(338.2) million for 2008, 2007 and 2006, respectively. The decrease in cash from operating activities in 2008 was primarily attributable to a \$554.1 million reduction in accounts payable associated primarily with the divestiture of our PC Business. Cash provided by operating activities in 2008 was primarily from our operating results adjusted to exclude non-cash items such as depreciation and amortization, stock based compensation expense, goodwill impairment and similar items. This source of cash was offset by net working capital changes of \$82.1 million (including proceeds from sales of accounts receivable) resulting primarily from the divestiture of our PC Business. Cash provided by operating activities in 2007 was primarily due to improvements in days sales outstanding and inventory turns, reflecting our increased emphasis on working capital management. Cash used in operating activities of \$338.2 million for 2006 was primarily due to an increase in inventory attributable to our efforts to drive materials loading to customer request dates in order to provide better product mix and upside flexibility for some of our long-term strategic customers and a decrease in accounts payable and accrued liabilities due to payments made to vendors. Working capital was \$1.6 billion at September 27, 2008 and September 29, 2007, respectively.

Net cash provided by (used in) investing activities was \$11.4 million, \$(16.9) million and \$(82.3) million for 2008, 2007 and 2006, respectively. In 2008, we received proceeds of \$89.1 million in connection with the sale of our PC Business, \$30.6 million from sales of other assets, and \$13.3 million from maturities of short-term investments. Those proceeds were partially offset by \$121.5 million of capital expenditures. Net cash used in investing activities for 2007 was primarily for the purchase of \$88.4 million of property, plant and equipment, partially offset by \$50.2 million of proceeds from sales of property, plant and equipment, and \$22.0 million from the sale of a business. Net cash used in investing activities for 2006 was primarily due to the purchase of \$139.2 million of property, plant and equipment and payments of \$44.7 million for businesses acquired, partially offset by \$80.7 million of proceeds from sales and maturities of our short-term investments and \$42.5 million of proceeds from sales of property, plant and equipment.

Net cash used in financing activities was \$120.0 million, \$43.8 million and \$144.1 million for 2008, 2007 and 2006, respectively. Net cash used in financing activities for 2008 resulted from repayment of \$120 million of our \$300 million 2010 Senior Floating Rate Notes. Net cash used in financing activities for 2007 was primarily for the repayment of \$525 million of our 3% Notes and repayment of

\$100.2 million of our revolving credit facility, offset by \$588 million in net proceeds from issuance of the two \$300 million Senior Floating Rate Notes due 2010 and 2014. Net cash used in financing activities for 2006 was primarily related to the redemption of our 10.375% Senior Secured Notes of \$851.5 million, partially offset by proceeds from issuance of our 8.125% Notes due 2016 (net of issuance costs) of \$587.1 million, receipt of \$22.5 million in restricted cash associated with the termination of the interest rate swap related to the 10.375% Senior Secured Notes, proceeds of \$12.8 million from the employee stock purchase plan and exercise of common stock options by our employees and \$100.0 million of outstanding borrowings under our Senior Credit Facility as of September 30, 2006.

As of September 27, 2008, the Company had \$1.5 billion of long-term debt outstanding under various debt instruments as discussed below.

*Senior Floating Rate Notes.* On June 12, 2007, we issued \$300 million of Senior Floating Rate Notes due 2010 (the "2010 Notes") and \$300 million of Senior Floating Rate Notes due 2014 (the "2014 Notes"). The notes accrue interest at a rate per annum, reset quarterly, equal to the three-month LIBOR plus 2.75%. The 2010 Notes will mature on June 15, 2010 and the 2014 Notes will mature on June 15, 2014. As of September 27, 2008, unamortized debt issuance costs were \$8.0 million, which were included in other non-current assets on the consolidated balance sheet and are being amortized to interest expense over the life of the debt using the effective interest method.

The notes are senior unsecured obligations and rank equal in right of payment with all of our existing and future senior unsecured debt. We may redeem the 2010 Notes, in whole or in part, at any time, at par plus accrued and unpaid interest. We may redeem the 2014 Notes, in whole or in part at redemption prices ranging from 100% to 102% of the principal amount of the 2014 Notes, plus accrued and unpaid interest.

On December 18, 2007, we redeemed \$120.0 million of the 2010 Notes at par. Upon redemption, unamortized debt issuance costs of \$2.2 million were expensed.

On June 12, 2007, we entered into interest rate swap transactions with independent third parties related to the 2014 Notes pursuant to which we pay the third parties a fixed rate and receive a floating rate from the third parties. The interest rate swaps had a total notional amount of \$300.0 million and were designated as cash flow hedges. Under the swap agreements, we pay a fixed rate of 5.594% in exchange for a three month LIBOR rate on the swaps. These swap agreements effectively fix the interest rate on our 2014 Notes at 8.344% through 2014.

*8.125% Senior Subordinated Notes.* On February 15, 2006, we issued \$600 million of 8.125% Senior Subordinated Notes due 2016 (the "8.125% Notes") with a maturity date of March 1, 2016. As of September 27, 2008, \$15.4 million of unamortized debt issuance costs were included in other non-current assets on the consolidated balance sheets and are being amortized to interest expense over the life of the debt using the effective interest method. The 8.125% Notes are unsecured and subordinated in right of payment to all of our existing and future senior debt.

We may redeem the 8.125% Notes, in whole or in part, at any time prior to March 1, 2011, at a redemption price equal to the sum of (1) the principal amount of the 8.125% Notes to be redeemed, (2) accrued and unpaid interest on those 8.125% Notes and (3) a make-whole premium. We may redeem the 8.125% Notes, in whole or in part, beginning on March 1, 2011, at declining redemption prices ranging from 104.063% to 100% of the principal amount of the 8.125% Notes, plus accrued and unpaid interest with the actual redemption price to be determined based on the date of redemption. At any time prior to March 1, 2009, we may redeem up to 35% of the 8.125% Notes with the proceeds of certain equity offerings at a redemption price equal to 108.125% of the principal amount of the 8.125% Notes, plus accrued and unpaid interest, so long as after giving effect to any such redemption, at least 65% of the aggregate principal amount of the 8.125% Notes remains outstanding.

*6.75% Senior Subordinated Notes.* On February 24, 2005, we issued \$400 million of our 6.75% Senior Subordinated Notes due 2013 (the "6.75% Notes") with a maturity date of March 1, 2013. We have entered into interest rate swap agreements with four independent swap counterparties to hedge our interest rate exposures related to the 6.75% Notes. The swap agreements, with an aggregate notional amount of \$400 million and expiration dates in 2013, effectively convert the fixed interest rate obligation to a variable rate obligation and are accounted for as fair value hedges under SFAS No. 133, but are exempt from periodic assessment of hedge effectiveness under Paragraph 68 of SFAS No. 133. Under the terms of the swap agreements, we pay the independent swap counterparties an interest rate equal to the six-month LIBOR rate plus a spread ranging from 2.214% to 2.250%. In exchange, we receive a fixed rate of 6.75%. As of September 27, 2008, unamortized debt issuance costs were \$9.5 million, which were included in other non-current assets on the consolidated balance sheet and are being amortized to interest expense over the life of the debt using the effective interest method.

The 6.75% Notes are unsecured and subordinated in right of payment to all of our existing and future senior debt. We may redeem the 6.75% Notes, in whole or in part, at any time prior to March 1, 2009, at a redemption price equal to the sum of (1) the principal amount of the 6.75% Notes to be redeemed, (2) accrued and unpaid interest and (3) a make-whole premium. We may redeem the 6.75% Notes, in whole or in part, beginning on March 1, 2009, at declining redemption prices ranging from 103.375% to 100% of the principal amount, plus accrued and unpaid interest, with the actual redemption price to be determined based on the date of redemption.

The 2010 Notes, 2014 Notes, 8.125% Notes and 6.75% Notes include covenants that limit our ability to, among other things: incur additional debt, make investments and other restricted payments, pay dividends on capital stock, or redeem or repurchase capital stock or subordinated obligations; create specified liens; sell assets; create or permit restrictions on the ability of our restricted subsidiaries to pay dividends or make other distributions to us; engage in transactions with affiliates; incur layered debt; and consolidate or merge with or into other companies or sell all or substantially all of our assets. The restrictive covenants are subject to a number of important exceptions and qualifications.

The indentures for these notes provide for customary events of default, including payment defaults, breaches of covenants, certain payment defaults at final maturity or acceleration of certain other indebtedness, failure to pay certain judgments, certain events of bankruptcy, insolvency and reorganization and certain instances in which a guarantee ceases to be in full force and effect. If any event of default occurs and is continuing, subject to certain exceptions, the trustee or the holders of at least 25% in aggregate principal amount of the then outstanding notes may declare all the notes to be due and payable immediately, together with any accrued and unpaid interest, if any. In the case of an event of default resulting from certain events of bankruptcy, insolvency or reorganization, such amounts with respect to the notes will be due and payable immediately without any declaration or other act on the part of the trustee or the holders of the notes.

Following a change of control, as defined in the indentures to these notes, we will be required to make an offer to repurchase all or any portion of the notes at a purchase price of 101% of the principal amount, plus accrued and unpaid interest.

*Senior Credit Facility.* On October 26, 2004, we entered into a Credit and Guaranty Agreement (the "Original Credit Agreement") providing for a \$500 million senior secured revolving credit facility with a \$150 million letter of credit sub-limit. The senior secured revolving credit facility provided for a maturity date of October 26, 2007, which was subsequently extended to December 16, 2008.

As of September 27, 2008, there was no loan balance outstanding under the \$500 million Restated Credit Agreement. On November 19, 2008, in connection with entering into the Loan Agreement, as described below, we terminated the Restated Credit Agreement.

We were in compliance with our covenants for the above debt instruments as of September 27, 2008

*Asset-backed Lending Facility.* On November 19, 2008, we entered into a Loan, Guaranty and Security Agreement (the "Loan Agreement"), among us, the financial institutions party thereto from time to time as lenders, and Bank of America, N.A., as agent for such lenders.

The Loan Agreement provides for a \$135 million secured asset-based revolving credit facility with an initial \$50 million letter of credit sublimit. The facility may be increased by an additional \$200 million upon obtaining additional commitments from the lenders then party to the Loan Agreement or new lenders. The Loan Agreement expires on the earlier of (i) the date that is 90 days prior to the maturity date of the 2010 Notes or the 6.75% Notes, in each case if such notes are not repaid, redeemed, defeased, refinanced or reserved for under the borrowing base under the Loan Agreement prior to such date or (ii) November 19, 2013 (the "Maturity Date").

Loans may be advanced under the Loan Agreement based on a borrowing base derived from specified percentages of the value of eligible accounts receivable and inventory. The borrowing base is subject to certain customary reserves and eligibility criteria. If at any time the aggregate principal amount of the loans outstanding plus the face amount of undrawn letters of credit under the Loan Agreement exceed the borrowing base then in effect, we must make a payment or post cash collateral (in the case of letters of credit) in an amount sufficient to eliminate such excess. There are currently no loans and \$23.7 million in letters of credit outstanding under the Loan Agreement.

Loans under the Loan Agreement bear interest, at our option, at a rate equal to LIBOR or a base rate equal to Bank of America, N.A.'s announced prime rate, in each case plus a spread. A commitment fee accrues on any unused portion of the commitments under the Loan Agreement at a rate per annum based on usage. Principal, together with accrued and unpaid interest, is due on the Maturity Date.

Our obligations under the Loan Agreement are secured by (1) all U.S. and Canadian accounts receivable, with automatic lien releases occurring at time of sale of each accounts receivable transaction for those customers included in the "U.S. Facility"—see "Sales of Accounts Receivable"; (2) all U.S. and Canadian inventory and associated obligations and documents; (3) all U.S. and Canadian deposit accounts, except accounts used for collections for certain transactions; and (4) a 65% pledge of the capital stock of our first-tier foreign subsidiaries.

The Loan Agreement contains customary affirmative covenants, including covenants regarding the payment of taxes and other obligations, maintenance of insurance, reporting requirements and compliance with applicable laws and regulations. Further, the Loan Agreement contains customary negative covenants limiting our ability under certain circumstances, among other things, to use the facility to make investments, acquisitions and certain restricted payments, and to sell assets. Upon an event of default, the lenders may declare all outstanding principal and accrued but unpaid interest under the Loan Agreement immediately due and payable. Events of default under the Loan Agreement include payment defaults, cross defaults with certain other indebtedness, breaches of covenants or representations and warranties, change in control of the Company and bankruptcy events.

*Sales of Accounts Receivable.* Certain of our foreign subsidiaries entered into agreements pursuant to which a financial institution provided a committed facility that permitted them to sell specified accounts receivable from customers of our PC Business, which we discontinued during 2008. The purchase price for receivables sold under these agreements ranged from 95% to 100% of face amount. We paid LIBOR plus a spread for the period from the date the receivable was sold to its collection date. Accounts receivable sales under these agreements were \$831.4 million during 2008. Sold receivables were subject to certain limited recourse provisions. We did not experience any credit losses under these recourse provisions.

On June 26, 2008, as a replacement to the foregoing accounts receivable sales program, we entered into a two year global revolving trade receivables purchase agreement ("Global Receivables Program") with a financial institution that allows us to sell accounts receivable from our EMS customers. The maximum face amount of accounts receivable that may be outstanding at any time under this agreement is \$250 million. Sales and or transfers of accounts receivable under the Global Receivables Program are made on terms and conditions similar to those discussed above. The Global Receivables Program has a foreign component and a U.S. component.

The foreign component is governed by a Revolving Trade Receivables Purchase Agreement ("Foreign Facility") dated June 26, 2008. Sales of receivables under the Foreign Facility were \$28.6 million in 2008, of which \$15.7 million was subject to certain recourse provisions as of September 27, 2008. Discount charges in 2008, as well as our retained interest in accounts receivable as of September 27, 2008 were not material.

In accordance with SFAS No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liability* " as amended by SFAS No. 156, *Accounting for Servicing of Financial Assets an Amendment of FASB Statement No. 140* , accounts receivable sold in 2008, 2007 and 2006 were removed from our consolidated balance sheets and reflected as cash provided by operating activities in the consolidated statements of cash flows.

The U.S. component is governed by a Credit and Security Agreement dated November 24, 2008 that requires us to make an absolute transfer of accounts receivable as a capital contribution to our wholly-owned special purpose entity (Borrower) to ensure that such transferred receivables are unavailable to our creditors and to ensure the interests of such transferred receivables are fully transferred to the Borrower and its agent. If, pursuant to applicable accounting rules, we are required to consolidate the Borrower, accounts receivable transferred under this agreement would remain on our consolidated balance sheet and proceeds received from such transfers would be reflected on our consolidated balance sheet as short-term debt. If we are not required to consolidate the Borrower, transferred accounts receivable would be removed from our consolidated balance sheet and proceeds received from such transfers would be reflected as cash provided by operating activities in the consolidated statement of cash flows.

*Other Liquidity Matters.* As part of our restructuring strategy, we sold our PC Business in two separate transactions during 2008. These transactions will materially reduce our cash flows.

Additionally, for a limited period of time after the sale, we or our assignee expect to provide transition services to the buyers in exchange for monetary consideration that will not be significant to our results of operations. We are also liable for breaches of representations and warranties, subject to certain limitations, and are required to reimburse the buyers for certain severance obligations that arise from terminations of employees of the PC Business that occur up to one year after closing. Although we have not incurred material liabilities pursuant to these provisions, there can be no assurance that we will not be required to make significant payments to the buyers in the future.

In the ordinary course of business, we are or may become party to legal proceedings, claims and other contingencies, including environmental matters and examinations and investigations by government agencies. As of September 27, 2008, we had reserves of \$33.1 million related to such matters. We may not be able to accurately predict the outcome of these matters or the amount or timing of cash flows that may be required to defend ourselves or to settle such matters. For further information regarding legal proceedings, see Part II, Item 1. Legal Proceedings.

On December 18, 2007, we redeemed \$120.0 million in aggregate principal amount of our 2010 Notes. We may consider additional redemptions of our long-term debt obligations during 2009. We have entered into a sale leaseback agreement for certain fixed assets, and may enter into additional sale leaseback agreements in the future. We are required to make future minimum lease payments of



\$18.8 million over the next three years in conjunction with a sale leaseback transaction entered into during 2008.

We have entered into, and continue to enter into, various transactions that periodically require collateral. These obligations have historically arisen from customs, import/export, VAT, utility services, debt financing, foreign exchange contracts and interest rate swaps. We have collateralized, and may from time to time collateralize, such obligations as a result of counter party requirements or for economic reasons. We anticipate that we will provide collateral for some of these obligations in our first quarter of 2009 in the range of \$20 million to \$25 million.

Our liquidity needs are largely dependent on changes in our working capital, including the extension of trade credit by our suppliers, investments in manufacturing inventory, facilities and equipment, and repayments of obligations under outstanding indebtedness. Our primary sources of liquidity include cash of \$869.8 million, our \$135 million asset-backed line of credit, our Global Receivable Program and cash generated from operations.

We are subject to certain covenants that, among other things, limit our ability to incur additional debt, make investments, pay dividends and sell assets. We were in compliance with our debt covenants as of September 27, 2008. However, we may be required to seek waivers or amendments to certain covenants for our debt instruments if we are unable to comply with the requirements of the covenants in the future. We may not be able to obtain such waivers or amendments on terms acceptable to us or at all, and, in such case, these covenants could materially adversely impact our ability to conduct our business or carry out our restructuring plans.

None of our debt matures prior to 2010. We currently have a \$135 million asset-backed line of credit, under which we have no borrowings and which expires in November 2013. In addition to our existing covenant requirements, future debt financing may require us to comply with financial ratios and covenants. Equity financing, if required, may result in dilution to stockholders.

We announced on October 27, 2008 that our Board of Directors had approved a stock repurchase program covering up to 10% of our shares based on our closing stock price on October 29, 2008. Purchases under the program shall be made at prevailing market prices or in negotiated transactions off the market. The program shall continue through December 2009, unless otherwise determined by the Board of Directors.

We believe our existing cash resources and other sources of liquidity, together with cash generated from operations, planned sales of assets and sales of accounts receivable under our factoring arrangements will be sufficient to meet our working capital requirements for at least the next 12 months. Should demand for our products decrease over the next 12 months, the available cash provided by operations could be adversely impacted.

#### *Contractual Obligations*

The following is a summary of our long-term debt, including interest, and operating lease obligations as of September 27, 2008:

	Total	Year Ended					Thereafter
		2009	2010	2011	2012	2013	
		(In thousands)					
Long-term debt	\$2,139,549	\$122,453	\$291,729	\$100,780	\$100,780	\$485,106	\$1,038,701
Operating leases(1)	86,607	25,579	20,206	14,938	7,199	3,429	15,256
Total contractual obligations	<u>\$2,226,156</u>	<u>\$148,032</u>	<u>\$311,935</u>	<u>\$115,718</u>	<u>\$107,979</u>	<u>\$488,535</u>	<u>\$1,053,957</u>

- (1) Future operating lease payments include \$6.0 million of obligations for closed facilities, net of sublease income of \$2.2 million, which have been fully or partially accrued.

We also have outstanding firm purchase orders with certain suppliers for the purchase of inventory. These purchase orders are generally short-term in nature. Orders for standard, or catalog, items can typically be canceled with little or no financial penalty. Our policy regarding non-standard or customized items dictates that such items are only ordered specifically for customers who have contractually assumed liability for the inventory. In addition, a substantial portion of catalog items covered by our purchase orders are procured for specific customers based on their purchase orders or a forecast under which the customer has contractually assumed liability for such material. Accordingly, the amount of liability from purchase obligations under these purchase orders is not expected to be significant or meaningful.

Certain acquisition agreements that we entered into may require us to pay additional consideration determined by the future performance of the acquired entity. The amount and likelihood of such payments were not determinable as of September 27, 2008.

We provided guarantees to various third parties in the form of letters of credit totaling \$45.2 million as of September 27, 2008. The letters of credit cover various guarantees including workers' compensation claims and customs duties.

We have defined benefit pension plans with an underfunded amount of \$32.4 million at September 27, 2008. We will be required to provide additional funding to these plans in the future.

Our future needs for financial resources include increases in working capital to support anticipated sales growth, investments in manufacturing inventory, facilities and equipment and repayments of outstanding indebtedness. Additionally, in 2009, we anticipate incurring additional expenditures in connection with our restructuring activities.

### **Quarterly Results ( *Unaudited* )**

The following tables contain selected unaudited quarterly financial data for the eight fiscal quarters in 2008 and 2007. In management's opinion, the unaudited data has been prepared on the same basis as the audited information and includes all adjustments (consisting only of normal recurring adjustments) necessary for a fair presentation of the data for the periods presented. Our results of operations have varied and may continue to fluctuate significantly from quarter to quarter. The results

of operations in any period should not be considered indicative of the results to be expected from any future period.

	Year Ended September 27, 2008			
	First Quarter	Second Quarter	Third Quarter	Fourth Quarter(2)
	(In thousands, except per share data)			
Net sales	\$1,778,140	\$ 1,817,431	\$ 1,903,253	\$ 1,703,579
Gross profit	\$ 128,929	\$ 124,645	\$ 139,641	\$ 130,891
Gross margin(1)	7.3%	6.9%	7.3%	7.7%
Operating income (loss)	\$ 26,816	\$ (8,613)	\$ 39,738	\$ (442,101)
Operating margin (loss)	1.5%	(0.5)%	2.1%	(26.0)%
Income (loss) from continuing operations	\$ (9,453)	\$ (39,937)	\$ 11,969	\$ (473,915)
Income (loss) from discontinued operations	\$ 17,369	\$ 15,523	\$ 3,359	\$ (11,264)
Net income (loss)	\$ 7,916	\$ (24,414)	\$ 15,328	\$ (485,179)
Basic net income (loss) from continuing operations per share	\$ (0.02)	\$ (0.08)	\$ 0.02	\$ (0.89)
Basic net income (loss) from discontinued operations per share	\$ 0.03	\$ 0.03	\$ 0.01	\$ (0.02)
Basic net income (loss) per share	\$ 0.01	\$ (0.05)	\$ 0.03	\$ (0.91)
Diluted net income (loss) from continuing operations per share	\$ (0.02)	\$ (0.08)	\$ 0.02	\$ (0.89)
Diluted net income (loss) from discontinued operations per share	\$ 0.03	\$ 0.03	\$ 0.01	\$ (0.02)
Diluted net income (loss) per share	\$ 0.01	\$ (0.05)	\$ 0.03	\$ (0.91)

- (1) Improvement in the fourth quarter, relative to the third quarter, is partially attributable to favorable resolutions of certain inventory and warranty claims.
- (2) Includes a goodwill impairment charge of \$478.7 million.

	Year Ended September 29, 2007			
	First Quarter	Second Quarter	Third Quarter	Fourth Quarter(2)
	(In thousands, except per share data)			
Net sales	\$1,922,562	\$ 1,788,028	\$ 1,673,298	\$ 1,753,905
Gross profit	\$ 141,587	\$ 113,495	\$ 95,055	\$ 104,379
Gross margin	7.4%	6.3%	5.7%	6.0%
Operating income (loss)	\$ 34,929	\$ (3,628)	\$ (5,515)	\$ (1,048,847)
Operating margin (loss)	1.8%	(0.2)%	(0.3)%	(59.8)%
Income (loss) from continuing operations(1)	\$ 10,485	\$ (42,320)	\$ (39,261)	\$ (1,070,397)
Income (loss) from discontinued operations(1)	\$ 17,764	\$ 16,188	\$ 11,621	\$ (38,737)
Net income (loss)	\$ 28,249	\$ (26,132)	\$ (27,640)	\$ (1,109,134)
Basic net income (loss) from continuing operations per share	\$ 0.02	\$ (0.08)	\$ (0.07)	\$ (2.03)
Basic net income (loss) from discontinued operations per share	\$ 0.03	\$ 0.03	\$ 0.02	\$ (0.07)
Basic net income (loss) per share	\$ 0.05	\$ (0.05)	\$ (0.05)	\$ (2.10)
Diluted net income (loss) from continuing operations per share	\$ 0.02	\$ (0.08)	\$ (0.07)	\$ (2.03)
Diluted net income (loss) from discontinued operations per share	\$ 0.03	\$ 0.03	\$ 0.02	\$ (0.07)
Diluted net income (loss) per share	\$ 0.05	\$ (0.05)	\$ (0.05)	\$ (2.10)

- (1) Amounts for the first three quarters differ from those previously reported due to final allocation of the provision for income taxes between continuing operations and discontinued operations.
- (2) Includes a goodwill impairment charge of \$1.0 billion.

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

##### Interest Rate Risk

Our exposures to market risk for changes in interest rates relate primarily to certain debt obligations. Currently, we do not use derivative financial instruments in our investment portfolio. We invest in high quality credit issuers and, by policy, limit the amount of principal exposure with any one issuer. As stated in our policy, we seek to ensure the safety and preservation of our invested principal funds by limiting default and market risk.

We seek to mitigate default risk by investing in high quality credit securities and by positioning our investment portfolio to respond to a significant reduction in credit rating of any investment issuer, guarantor or depository. We seek to mitigate market risk by limiting the principal and investment term of funds held with any one issuer and by investing funds in marketable securities with active secondary or resale markets. As of September 27, 2008, we had no short-term investments.

We have 6.75% Notes with a principal balance of \$400 million due in 2013. We also have interest rate swap agreements with four independent swap counterparties to hedge our interest rate exposures related to the 6.75% Notes. The swap agreements, with an aggregate notional amount of \$400 million and expiration dates in 2013, effectively convert the fixed interest rate obligation to a variable rate obligation and are accounted for as fair value hedges under SFAS No. 133, but are exempt from periodic assessment of hedge effectiveness under Paragraph 68 of SFAS No. 133. Under the terms of the swap agreements, we pay the independent swap counterparties an interest rate equal to the six-month LIBOR rate plus a spread ranging from 2.214% to 2.250%. In exchange, our swap

counterparties pay us a fixed rate of 6.75%. The differential paid or received on the interest rate swaps is recognized in earnings as an adjustment to interest expense. At September 27, 2008 and September 29, 2007, \$2.0 million and \$11.9 million, respectively, have been recorded in other long-term liabilities on the consolidated balance sheets to record the fair value of the interest rate swap agreements. Interest expense for 2008 decreased by \$1.6 million and interest expense for 2007 and 2006 increased by \$3.9 million and \$0.9 million, respectively, as a result of the difference between the 6.75% fixed interest rate on the 6.75% Notes and the variable interest rates under the swap agreements which averaged 6.31%, 7.65% and 6.88% during 2008, 2007 and 2006, respectively.

On June 12, 2007, we issued \$300 million aggregate principal amount of 2014 Notes. We also entered into interest rate swap agreements with two independent swap counterparties to hedge our interest rate exposures related to our 2014 Notes. The swap agreements, with an aggregate notional amount of \$300 million that expires in 2014, effectively convert the variable interest rate obligation to a fixed rate obligation and are accounted for as cash flow hedges under SFAS No. 133, subject to periodic assessment of effectiveness. Under the terms of the swap agreements, we pay the independent swap counterparties a fixed rate of 5.594%. In exchange, our swap counterparties pay us an interest rate equal to the three-month LIBOR. These swap agreements effectively fix the interest rate on our 2014 Notes at 8.344% through 2014. At September 27, 2008, \$22.9 million has been recorded in other long-term liabilities to record the fair value of the interest rate swap agreements, with a corresponding decrease to accumulated other comprehensive income, on the consolidated balance sheet. Over the next 12 months, we expect to reclassify approximately \$7.6 million to interest expense. Amounts in accumulated other comprehensive income (loss) will be reclassified when the hedged interest expense is realized in the consolidated statement of operations. The ineffective portion of the hedges was not material for 2008.

Since our 6.75% Notes and 2010 Notes are floating rate debt instruments, an immediate 10% increase in interest rates at September 27, 2008 would result in an increase in annual gross interest expense of approximately \$3.8 million. Similarly, an immediate 10% reduction in interest rates would result in a reduction in annual interest expense of approximately \$3.8 million.

### **Foreign Currency Exchange Risk**

We transact business in foreign countries. Our foreign exchange policy requires that we take certain steps to limit our foreign exchange exposures in certain assets and liabilities and forecasted cash flows. However, such policy does not require us to hedge all foreign exchange exposures. Further, foreign currency hedges are based on forecasted transactions, the amount of which may differ from that actually incurred. As a result, we can experience foreign exchange rate gains and losses in our results of operations.

Our primary foreign currency cash flows are in certain Asian and European countries, Brazil, Canada and Mexico. We enter into short-term foreign currency forward contracts to hedge currency exposures associated with certain assets and liabilities denominated in foreign currencies. These contracts typically have maturities of three months or less. Further, these contracts are not designated as part of a hedging relationship in accordance with SFAS No. 133. All outstanding foreign currency forward contracts are marked-to-market at the end of the period with unrealized gains and losses included in other income (expense), net, in the consolidated statements of operations. At September 27, 2008 and September 29, 2007, we had outstanding foreign currency forward contracts to exchange various foreign currencies for U.S. dollars in the aggregate notional amount of \$341.6 million and \$279.5 million, respectively. The net impact of an immediate 10% change in exchange rates would not be material to our consolidated financial statements.

We also utilize foreign currency forward and option contracts to hedge certain operational ("cash flow") exposures resulting from changes in foreign currency exchange rates. Such exposures result from

portions of forecasted sales, cost of sales and expenses denominated in currencies other than the functional currency. These contracts typically are less than 12 months in duration. Further, these contracts are accounted for as cash flow hedges under SFAS No. 133, subject to periodic assessment of effectiveness. The effective portion of changes in the fair value of the contracts is recorded in stockholders' equity as a separate component of accumulated other comprehensive income and is recognized in the consolidated statement of operations when the hedged item affects earnings. The ineffective portion of the hedges was not material for 2008. We had forward and option contracts related to cash flow hedges in various foreign currencies in the aggregate notional amount of \$49.3 million and \$30.0 million at September 27, 2008 and September 29, 2007, respectively.

**Item 8. *Financial Statements and Supplementary Data***

The information required by this item is incorporated by reference to the financial statements included in "Part IV—Item 15(a)(1)," the financial statement schedule included in "Part IV—Item 15(a)(2)" and the selected quarterly financial data included in "Part II—Item 7—Management's Discussion and Analysis of Financial Condition and Results of Operations—Quarterly Results (Unaudited)."

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

Not applicable.

**Item 9A. *Controls and Procedures***

**(a) *Management's Report on Internal Control Over Financial Reporting***

Our management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Exchange Act Rule 13a-15(f) under the Securities Exchange Act of 1934, as amended, or the Exchange Act). Our management, including our Chief Executive Officer and Chief Financial Officer, conducted an evaluation of the effectiveness of our internal control over financial reporting as of September 27, 2008. In making this assessment, our management used the criteria established in *Internal Control—Integrated Framework*, issued by The Committee of Sponsoring Organizations of the Treadway Commission (COSO). The effectiveness of our internal control over financial reporting as of September 27, 2008 has been audited by KPMG LLP, an independent registered public accounting firm, as stated in their report which is included in Item 15 of this Annual Report on Form 10-K.

**(b) *Changes in Internal Control Over Financial Reporting***

There was no change in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the fiscal quarter ended September 27, 2008 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**(c) *Evaluation of Disclosure Controls and Procedures***

Based on an evaluation under the supervision and with the participation of our management, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures as defined in rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (Exchange Act) were effective as of September 27, 2008 to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified by the Securities and Exchange Commission rules and forms and (ii) accumulated and communicated to our management, including

our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding timely disclosure.

**(d) *Inherent Limitations of Disclosure Controls and Internal Control Over Financial Reporting***

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures or our internal controls, will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected.

**Item 9B. *Other Information***

Due to general conditions in the economy, the illiquidity of credit markets and the decline in the stock market generally and our stock price in particular, we undertook a review of the goodwill carried on our balance sheet using the two-step test contained in Statement of Financial Accounting Standards ("SFAS") No. 142, "*Goodwill and Other Intangible Assets*", during the fourth quarter of 2008. On November 18, 2008, we completed this review and determined that our goodwill had become impaired under SFAS 142. As a result, we have recorded a non-cash charge of \$478.7 million as a reduction of goodwill, which is reflected in the balance sheet and consolidated statement operations for 2008.

**PART III**

The information called for by Items 10, 11, 12, 13 and 14 of Part III are incorporated by reference from our definitive Proxy Statement to be filed in connection with our 2009 Annual Meeting of Stockholders pursuant to Regulation 14A, except that the information regarding our executive officers called for by Item 401(b) of Regulation S-K has been included in Part I of this report.

## PART IV

### Item 15. *Exhibits and Financial Statement Schedules*

- (a) (1) The following financial statements are filed as part of this report:

	<u>Page</u>
Reports of Independent Registered Public Accounting Firm	70-71
Financial Statements:	
Consolidated Balance Sheets, As of September 27, 2008 and September 29, 2007	72
Consolidated Statements of Operations, Years Ended September 27, 2008, September 29, 2007 and September 30, 2006	73
Consolidated Statements of Comprehensive Loss, Years Ended September 27, 2008, September 29, 2007 and September 30, 2006	74
Consolidated Statements of Stockholders' Equity, Years Ended September 27, 2008, September 29, 2007 and September 30, 2006	75
Consolidated Statements of Cash Flows, Years Ended September 27, 2008, September 29, 2007 and September 30, 2006	76
Notes to Consolidated Financial Statements	77

- (2) The following financial statement schedule of Sanmina-SCI Corporation is filed as part of this report on Form 10-K and should be read in conjunction with our Financial Statements included in this Item 15:

Schedule II—Valuation and Qualifying Accounts

All other schedules are omitted because they are not applicable or the required information is shown in the Financial Statements or the notes thereto.

- (3) Refer to item 15(b) immediately below.



**(b) Exhibits**

<b>Exhibit Number</b>	<b>Description</b>
3.1(1)	Restated Certificate of Incorporation of the Registrant, dated January 31, 1996.
3.2(2)	Certificate of Amendment of the Restated Certificate of Incorporation of the Registrant, dated March 9, 2001.
3.3(3)	Certificate of Designation of Rights, Preferences and Privileges of Series A Participating Preferred Stock of the Registrant, dated May 31, 2001.
3.4(4)	Certificate of Amendment of the Restated Certificate of Incorporation of the Registrant, dated December 7, 2001.
3.5(5)	Amended and Restated Bylaws of Sanmina-SCI Corporation adopted by the Board of Directors on September 8, 2008.
4.1(6)	Preferred Stock Rights Agreement, dated as of May 17, 2001 between the Registrant and Wells Fargo National Bank, Minnesota, N.A., including the form of Certificate of Determination, the form of Rights Certificate and the Summary of Rights attached thereto as Exhibits A, B, and C.
4.2(7)	Supplemental Indenture No. 3, dated as of October 7, 2005, to the Subordinated Indenture, by and among SCI Systems, Inc., Sanmina-SCI USA, Inc. and J.P. Morgan Trust Company, National Association, as trustee.
4.3(8)	Subordinated Indenture dated March 15, 2000, between SCI Systems, Inc. and Bank One Trust Company, National Association, as Trustee ("Subordinated Indenture").
4.4(9)	Supplemental Indenture No. 1, dated as of March 15, 2000, to the Subordinated Indenture, between SCI Systems, Inc. and Bank One Trust Company, National Association, as Trustee.
4.5(10)	Supplemental Indenture No. 2, dated as of December 7, 2001, to the Subordinated Indenture, by and among SCI Systems, Inc., Sanmina Corporation, as Guarantor, and Bank One Trust Company, National Association, as Trustee.
4.6(11)	Indenture, dated as of December 23, 2002, among the Registrant, the Guarantors Party thereto and State Street Bank and Trust Company California, N.A., as trustee.
4.7(12)	First Supplemental Indenture, dated as of July 21, 2003, among Newisys, Inc., the Registrant and U.S. Bank National Association, as trustee.
4.8(13)	Second Supplemental Indenture, dated as of September 30, 2005, among Sanmina-SCI USA, Inc., the Registrant and U.S. Bank National Association, as trustee.
4.9(14)	Intercreditor Agreement, dated as of December 23, 2002, by and among, as second lien collateral trustees, LaSalle Business Credit, Inc., as collateral agent, State Street Bank and Trust Company of California, N.A. and each New First Lien Claimholder Representative which May become a party from time to time, and the Registrant.
4.10(15)	Sanmina-SCI Corporation Second Lien Collateral Trust Agreement, dated as of December 23, 2002, by and among the Registrant, the subsidiaries of the Registrant party thereto and State Street Bank and Trust Company of California, N.A., as second lien collateral trustee.
4.11(16)	Indenture, dated as of February 24, 2005, among the Registrant, the guarantors party thereto and U.S. Bank National Association, as trustee.
4.12(17)	First Supplemental Indenture, dated as of September 30, 2005, among Sanmina-SCI USA, Inc., the Registrant and U.S. Bank National Association, as trustee.

<b>Exhibit Number</b>	<b>Description</b>
4.13(18)	Second Supplemental Indenture, dated as of January 3, 2007, among the Registrant and U.S. Bank National Association, as trustee.
4.14(19)	Indenture, dated as of February 15, 2006, among the Registrant, certain subsidiaries of the Registrant as guarantors there under and U.S. Bank National Association, as trustee.
4.15(20)	First Supplemental Indenture, dated as of January 3, 2007, among the Registrant and U.S. Bank National Association, as trustee.
4.16(21)	Amended and Restated Credit and Guaranty Agreement, dated as of December 16, 2005, among the Registrant, the guarantors party thereto, the lenders party thereto, Citibank, N.A., as Collateral Agent, and Bank of America, N.A., as Administrative Agent.
4.17(22)	Amendment No.3 and Waiver to Amended and Restated Credit and Guaranty Agreement, dated as of December 29, 2006, among the Registrant, the guarantors party thereto, the lenders party thereto, Citibank, N.A., as Collateral Agent, and Bank of America, N.A., as Administrative Agent.
4.18(23)	Amendment No. 4 to Amended and Restated Credit and Guaranty Agreement, dated as of June 5, 2007, by and among Registrant, each of the subsidiaries of Registrant party thereto, the lenders party thereto, Citibank, N.A., as collateral agent, and Bank of America, N.A., as Administrative Agent.
4.19(24)	Indenture, dated as of June 12, 2007, among Registrant, the guarantors party thereto, and Wells Fargo Bank, National Association as trustee, relating to the Senior Floating Rate Notes due 2010.
4.20(25)	Indenture, dated as of June 12, 2007, among Registrant, the guarantors party thereto, and Wells Fargo Bank, National Association as trustee, relating to the Senior Floating Rate Notes due 2014.
10.1(26)	Amended 1990 Incentive Stock Plan.
10.2(27)	1999 Stock Plan.
(28)	
10.3(10)	Addendum to the 1999 Stock Plan (Additional Terms and Conditions for Employees of the French subsidiary(ies)), dated February 21, 2001.
10.4(29)	1995 Director Option Plan.

- 10.5(30) 1996 Supplemental Stock Plan.
  - 10.6(31) Hadco Corporation Non-Qualified Stock Option Plan, as Amended and Restated July 1, 1998.
  - 10.7(32) SCI Systems, Inc. 1994 Stock Option Incentive Plan.
  - 10.8.(33) SCI Systems, Inc. 2000 Stock Incentive Plan.
  - 10.9.(34) SCI Systems, Inc. Board of Directors Deferred Compensation Plan.
  - 10.10(35) Form of Indemnification Agreement executed by the Registrant and its officers and directors pursuant to the Delaware reincorporation.
  - 10.11(36) Amended and Restated Sanmina-SCI Corporation Deferred Compensation Plan for Outside Directors.  
(28)
  - 10.12(10) Rules of the Sanmina-SCI Corporation Stock Option Plan 2000 (Sweden).
  - 10.13(10) Rules of the Sanmina-SCI Corporation Stock Option Plan 2000 (Finland).
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<u>Exhibit Number</u>	<u>Description</u>
10.14(37) (28)	Amended and Restated Sanmina-SCI Corporation Deferred Compensation Plan dated June 9, 2008.
10.15(38)	2003 Employee Stock Purchase Plan.
10.16(39)	Committed Account Receivable Purchase Agreement, dated April 1, 2005, between Sanmina-SCI UK Limited and Citibank International Plc.
10.17(40)	Committed Account Receivable Purchase Agreement, dated April 1, 2005, between Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Citibank International Plc.
10.18(41)	Revolving Receivables Purchase Agreement, dated as of September 23, 2005, among Sanmina-SCI Magyarország Elektronikai Gyarto Kft, Sanmina-SCI Systems de Mexico S.A. de C.V., as Originators, the Registrant and Sanmina-SCI UK Ltd., as Servicers, the banks and financial institutions party thereto from time to time, and Deutsche Bank AG New York, as Administrative Agent.
10.19(42)	Randy Furr separation agreement.
10.20(43)	Revolving Trade Receivables Purchase Agreement, dated as of September 21, 2007, among Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Sanmina-SCI Systems de Mexico, S.A. de C.V., as Originators, the Registrant, Sanmina-SCI UK Ltd., and Sanmina-SCI Israel Medical Ltd., as Servicers, the banks and financial institutions party thereto from time to time, and Deutsche Bank AG New York, as Administrative Agent.
10.21(44)	Form of First Amendment to the Revolving Trade Receivables Purchase Agreement, dated as of September 21, 2007, among Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Sanmina-SCI Systems de Mexico, S.A. de C.V., as Originators, Sanmina-SCI Corporation and Sanmina-SCI UK Ltd., as Servicers, the several banks and other financial institutions or entities from time to time party thereto, as Purchasers, and Deutsche Bank AG New York Branch, as Administrative Agent, dated November 26, 2007.
10.22(45) (28)	Employment Agreement dated as of August 28, 2007 by and between the Registrant and Joseph Bronson.
10.23(46) (28)	Employment Agreement dated as of June 15, 2007 by and between the Registrant and Walter Hussey.
10.24(47) (28)	Employment Agreement dated as of March 2, 2007 by and between the Registrant and Michael Tyler.
10.25(48)	Asset Purchase and Sale Agreement dated February 17, 2008 by and among Sanmina-SCI Corporation, Sanmina-SCI USA Inc., SCI Technology, Inc., Sanmina-SCI Systems de Mexico S.A. de C.V., Sanmina-SCI Systems Services de Mexico S.A. de C.V., Sanmina-SCI Hungary Electronics Manufacturing Limited Liability Company, Sanmina-SCI Australia PTY LTD and Foxteq Holdings, Inc.
10.26(49)	Amendment to Asset Purchase Agreement dated February 17, 2008 by and among Sanmina-SCI Corporation, Sanmina-SCI USA Inc., SCI Technology, Inc., Sanmina-SCI Systems de Mexico S.A. de C.V., Sanmina-SCI Systems Services de Mexico S.A. de C.V., Sanmina-SCI Hungary Electronics Manufacturing Limited Liability Company, Sanmina-SCI Australia PTY LTD and Foxteq Holdings, Inc., dated July 7, 2008.
10.27(50) (28)	Description of fiscal 2008 Non-employee Directors Compensation Arrangements.
10.28(51) (28)	Employment offer letter dated July 20, 2004 between Sanmina-SCI Corporation and David White.

<u>Exhibit Number</u>	<u>Description</u>
10.29(52)	Asset Purchase Agreement dated April 25, 2008 by and among Sanmina-SCI USA Inc., Sanmina-SCI Systems de Mexico S.A. de C.V., Sanmina-SCI Systems Services de Mexico S.A. de C.V., Lenovo (Singapore) Pte.Ltd. and Lenovo Centro Tecnológico, SdeRL de C.V.
10.30(53)	First Amendment Agreement, dated as of November 26, 2007 to the Revolving Trade Receivables Purchase Agreement dated as of September 21, 2007 among Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Sanmina-SCI Systems de Mexico, S.A. de C.V., as Originators, Sanmina-SCI Corporation and Sanmina-SCI UK Ltd, as Services, the several banks and other financial institutions or entities from time to time parties thereto, as Purchasers and Deutsche Bank AG New York Branch, as Administrative Agent.
10.31(54)	Second Amendment Agreement, dated as of March 21, 2008 to the Revolving Trade Receivables Purchase Agreement dated as of September 21, 2007 among Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Sanmina-SCI Systems de Mexico, S.A. de C.V., as Originators, Sanmina-SCI Corporation and Sanmina-SCI UK Ltd, as Services, the several banks and other financial institutions or entities from time to time parties thereto, as Purchasers and Deutsche Bank AG New York Branch, as Administrative Agent.
10.32(55)	Third Amendment Agreement, dated as of April, 30, 2008 to the Revolving Trade Receivables Purchase Agreement dated as of September 21, 2007 among Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Sanmina-SCI Systems de Mexico, S.A. de C.V., as Originators, Sanmina-SCI Corporation and Sanmina-SCI UK Ltd, as Services, the several banks and other financial institutions or entities from time to time parties thereto, as Purchasers and Deutsche Bank AG New York Branch, as Administrative Agent.
10.33(56) (28)	Revised form of Officer and Director Indemnification Agreement.
10.34(57)	Revolving Trade Receivables Purchase Agreement dated June 26, 2008 by and among, Sanmina-SCI Corporation, Deutsche Bank AG New York, as administrative agent, and Sanmina-SCI Magyarország Elektronikai Gyártó Kft, Sanmina

Magyarország Elektrotechnikai Részegységgyártó Kft, Sanmina-SCI EMS Haukipudas OY, a limited liability company incorporated under the laws of the Republic of Finland, Sanmina-SCI Enclosure Systems OY, Sanmina-SCI Systems Singapore Pte. Ltd., Sanmina-SCI Israel Medical Systems Ltd., Sanmina-SCI Systems Canada, Inc., Sanmina-SCI Systems (Thailand) Ltd., and Sanmina-SCI UK Ltd.

10.35(58) Sanmina-SCI FY 2008 Corporate Annual G&A Short Term Incentive Plan.  
(28)

10.36 Loan, Guaranty and Security Agreement, dated as of November 19, 2008, among Sanmina-SCI Corporation and certain of its subsidiaries as borrowers, Sanmina-SCI Systems (Canada) Inc. and SCI Brockville Corp., as Designated Canadian Guarantors, the financial institutions party thereto from time to time as lenders and Bank of America, N.A., as agent for such lenders (filed herewith).

14.1 Sanmina-SCI Corporation Code of Business Conduct and Ethics (filed herewith).

21.1 Subsidiaries of the Registrant (filed herewith).

23.1 Consent of KPMG LLP, independent registered public accounting firm (filed herewith).

<b>Exhibit Number</b>	<b>Description</b>
31.1	Certification of the Principal Executive Officer pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
31.2	Certification of the Principal Financial Officer pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
32.1(59)	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).
32.2(59)	Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).

- (1) Incorporated by reference to Exhibit 3.2 to the Registrant's Report on Form 10-K for the fiscal year ended September 30, 1996, SEC File No. 000-21272, filed with the Securities and Exchange Commission ("SEC") on December 24, 1996.
- (2) Incorporated by reference to Exhibit 3.1(a) to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2001, filed with the SEC on May 11, 2001.
- (3) Incorporated by reference to Exhibit 3.1.3 to the Registrant's Report on Form 10-K for the fiscal year ended September 30, 2001, filed with the SEC on December 21, 2001.
- (4) Incorporated by reference to Exhibit 3.1.2 to the Registrant's Registration Statement on Form S-4 filed with the SEC on August 10, 2001.
- (5) Incorporated by reference to Exhibit 3.2 to Registrant's Form 8-K filed on September 12, 2008.
- (6) Incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form 8-A filed with the SEC on May 25, 2001.
- (7) Incorporated by reference to Exhibit 4.2.3 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (8) Incorporated by reference to Exhibit 2.2 to SCI Systems, Inc.'s Registration Statement on Form 8-A12B, SEC File No. 001-12821, filed with the SEC on March 9, 2000.
- (9) Incorporated by reference to Exhibit 4.1 to SCI Systems, Inc.'s Report on Form 8-K, SEC File No. 001-12821, filed with the SEC on April 5, 2000.
- (10) Incorporated by reference to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 28, 2002, filed on December 4, 2002.
- (11) Incorporated by reference to Exhibit 4.7 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended December 28, 2002, filed February 11, 2003.
- (12) Incorporated by reference to Exhibit 4.7.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (13) Incorporated by reference to Exhibit 4.7.2 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (14) Incorporated by reference to Exhibit 4.9 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended December 28, 2002, filed February 11, 2003.
- (15) Incorporated by reference to Exhibit 4.10 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended December 28, 2002, filed February 11, 2003.

- (16) Incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed on February 24, 2005.
- (17) Incorporated by reference to Exhibit 4.13.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (18) Incorporated by reference to Exhibit 4.13.2 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2006, filed January 3, 2007.
- (19) Incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed on February 15, 2006.
- (20) Incorporated by reference to Exhibit 4.14.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2006, filed January 3, 2007.
- (21) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed on December 22, 2005.
- (22) Incorporated by reference to Exhibit 4.15.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2006, filed January 3, 2007.
- (23) Incorporated by reference to Exhibit 10.1 to the Registrant's Registration Statement on Form 8-K filed June 6, 2007.
- (24) Incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form 8-K filed June 13, 2007.
- (25) Incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form 8-K filed June 13, 2007.
- (26) Incorporated by reference to Exhibit 10.2 to the Registrant's Report on Form 10-K, SEC File No. 000-21272, filed with the SEC on December 29, 1994.
- (27) Incorporated by reference to Exhibit 4.3 to the Registrant's Report on Form S-8, filed with the SEC on May 25, 1999.
- (28) Compensatory plan in which an executive officer or director participates.
- (29) Incorporated by reference to Exhibit 10.4 to the Registrant's Registration Statement on Form S-8, SEC File No. 333-23565, filed with the SEC on March 19, 1997.
- (30) Incorporated by reference to Exhibit 10.1 to the Registrant's Registration Statement on Form S-8, SEC File No. 333-23565, filed with the SEC on March 19, 1997.
- (31) Incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form S-8, filed with the SEC on June 23, 2000.
- (32) Incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form S-8, filed with the SEC on December 20, 2001.
- (33) Incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form S-8, filed with the SEC on December 20, 2001.
- (34) Incorporated by reference to Exhibit 4.3 to the Registrant's Registration Statement on Form S-8, filed with the SEC on December 20, 2001.
- (35) Incorporated by reference to Exhibit 10.42 to the Registrant's Registration Statement on Form S-1, SEC File No. 33-70700, filed with the SEC on February 19, 1993.
- (36) Incorporated by reference to Exhibit 10.75 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008 filed August 4, 2008.

- (37) Incorporated by reference to Exhibit 10.74 to the Registrant's Form 10-Q for the fiscal quarter ended June 28, 2008 filed August 4, 2008.
- (38) Incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form S-8, filed with the SEC on April 23, 2003.
- (39) Incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended April 2, 2005, filed on May 12, 2005.
- (40) Incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended April 2, 2005, filed on May 12, 2005.
- (41) Incorporated by reference to Exhibit 10.57 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (42) Incorporated by reference to Exhibit 10.58 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (43) Incorporated by reference to Exhibit 10.57 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 29, 2007, filed November 28, 2007.
- (44) Incorporated by reference to Exhibit 10.1 to the Registrant's Form 10-Q for the fiscal quarter ended December 29, 2007 filed January 31, 2008.
- (45) Incorporated by reference to Exhibit 10.60 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 29, 2007, filed November 28, 2007.
- (46) Incorporated by reference to Exhibit 10.61 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 29, 2007, filed November 28, 2007.
- (47) Incorporated by reference to Exhibit 10.62 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 29, 2007, filed November 28, 2007.
- (48) Incorporated by reference to Exhibit 10.64 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (49) Incorporated by reference to Exhibit 10.71 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008, filed August 4, 2008.
- (50) Incorporated by reference to Exhibit 10.65 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (51) Incorporated by reference to Exhibit 10.66 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (52) Incorporated by reference to Exhibit 10.67 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (53) Incorporated by reference to Exhibit 10.68 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (54) Incorporated by reference to Exhibit 10.69 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (55) Incorporated by reference to Exhibit 10.70 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (56) Incorporated by reference to Exhibit 10.42 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008, filed August 4, 2008.

- (57) Incorporated by reference to Exhibit 10.72 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008, filed August 4, 2008.
  - (58) Incorporated by reference to Exhibit 10.73 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008, filed August 4, 2008.
  - (59) This exhibit shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that Section, nor shall it be deemed incorporated by reference in any filings under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language in any filings.
- (b) Financial Statement Schedules. See Item 15(a)(2), above.



## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders  
Sanmina-SCI Corporation:

We have audited the accompanying consolidated balance sheets of Sanmina-SCI Corporation and subsidiaries (the Company) as of September 27, 2008 and September 29, 2007, and the related consolidated statements of operations, comprehensive loss, stockholders' equity, and cash flows for each of the fiscal years in the three-year period ended September 27, 2008. In connection with our audits of the consolidated financial statements, we also have audited financial statement schedule II as set forth under Item 15. These consolidated financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Sanmina-SCI Corporation and subsidiaries as of September 27, 2008 and September 29, 2007, and the results of their operations and their cash flows for each of the fiscal years in the three-year period ended September 27, 2008, in conformity with U.S. generally accepted accounting principles. Also in our opinion, the related financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

As discussed in note 2 to the consolidated financial statements, the Company adopted the provisions of Financial Accounting Standards Board Interpretation No. 48, *Accounting for Uncertainty in Income Taxes—an interpretation of FASB Statement No. 109*, at the beginning of fiscal 2008. As discussed in note 14 to the consolidated financial statements, the Company changed its method of accounting for its pension plans and other postretirement benefits upon adoption of Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans—an amendment of FASB Statements No. 87, 88, 106 and 132R*, in fiscal 2007. Also as discussed in note 2 to the consolidated financial statements, the Company changed its method of accounting for stock-based compensation upon adoption of SFAS 123R, *Shared-Based Payment*, at the beginning of fiscal 2006.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of September 27, 2008, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), and our report dated November 24, 2008 expressed an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

/s/ KPMG LLP

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Mountain View, California  
November 24, 2008

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders  
Sanmina-SCI Corporation:

We have audited Sanmina-SCI Corporation and subsidiaries' (the Company) internal control over financial reporting as of September 27, 2008, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying *Management's Report on Internal Control over Financial Reporting* appearing under Item 9A. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

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

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

In our opinion, Sanmina-SCI Corporation and subsidiaries maintained, in all material respects, effective internal control over financial reporting as of September 27, 2008, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Sanmina-SCI Corporation and subsidiaries as of September 27, 2008 and September 29, 2007, and the related consolidated statements of operations, comprehensive loss, stockholders' equity, and cash flows for each of the fiscal years in the three-year period ended September 27, 2008, and our report dated November 24, 2008 expressed an unqualified opinion on those consolidated financial statements.

/s/ KPMG LLP

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Mountain View, California  
November 24, 2008

**SANMINA-SCI CORPORATION**  
**CONSOLIDATED BALANCE SHEETS**

	As of	
	September 27, 2008	September 29, 2007
	(In thousands, except par value)	
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 869,801	\$ 933,424
Accounts receivable, net of allowances of \$14,934 and \$16,729 in 2008 and 2007, respectively	969,558	1,218,375
Inventories	813,359	1,059,856
Prepaid expenses and other current assets	100,399	167,038
Assets held for sale	43,163	36,764
Total current assets	2,796,280	3,415,457
Property, plant and equipment, net	599,908	609,394
Goodwill	—	510,669
Other	117,785	134,435
Total assets	\$ 3,513,973	\$ 4,669,955
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 891,397	\$ 1,450,705
Accrued liabilities	191,022	203,941
Accrued payroll and related benefits	139,522	142,436
Total current liabilities	1,221,941	1,797,082
Long-term liabilities:		
Long-term debt	1,481,985	1,588,072
Other	114,089	111,654
Total long-term liabilities	1,596,074	1,699,726
Commitments and contingencies (Note 13)		
Stockholders' equity:		
Preferred stock, \$.01 par value, authorized 5,000 shares, none issued and outstanding	—	—
Common stock, \$.01 par value, authorized 1,000,000 shares, 550,081 and 548,763 shares issued, respectively, and 531,009 and 529,964 shares outstanding, respectively	5,501	5,488
Treasury stock, 19,072 and 18,799 shares, respectively, at cost	(184,725)	(185,541)
Additional paid-in capital	5,991,605	5,977,991
Accumulated other comprehensive income	55,777	61,060
Accumulated deficit	(5,172,200)	(4,685,851)
Total stockholders' equity	695,958	1,173,147
Total liabilities and stockholders' equity	\$ 3,513,973	\$ 4,669,955

See accompanying notes to the consolidated financial statements.

**SANMINA-SCI CORPORATION**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**

	Year Ended		
	September 27, 2008	September 29, 2007	September 30, 2006
(In thousands, except per share amounts)			
Net sales	\$ 7,202,403	\$ 7,137,793	\$ 7,645,118
Cost of sales	6,678,297	6,683,277	7,108,977
Gross profit	524,106	454,516	536,141
Operating expenses:			
Selling, general and administrative	317,045	355,768	351,038
Research and development	19,546	30,080	40,181
Restructuring costs	81,376	42,587	85,231
Amortization of intangible assets	6,600	6,601	9,554
Impairment of goodwill, tangible and other intangible assets	483,699	1,042,541	19,000
In-process research and development	—	—	2,600
Total operating expenses	908,266	1,477,577	507,604
Operating income (loss)	(384,160)	(1,023,061)	28,537
Interest income	19,744	28,766	19,434
Interest expense	(127,231)	(168,291)	(121,813)
Other income (expense), net	3,553	23,734	(16,491)
Loss on extinguishment of debt	(2,237)	(3,175)	(84,600)
Interest and other income (expense), net	(106,171)	(118,966)	(203,470)
Loss from continuing operations before income taxes and cumulative effect of accounting changes	(490,331)	(1,142,027)	(174,933)
Provision for (benefit from) income taxes	21,005	(534)	(10,638)
Loss from continuing operations before cumulative effect of accounting changes	(511,336)	(1,141,493)	(164,295)
Cumulative effect of accounting changes, net of tax	—	—	2,830
Loss from continuing operations	(511,336)	(1,141,493)	(161,465)
Income from discontinued operations, net of tax	24,987	6,836	19,908
Net loss	\$ (486,349)	\$ (1,134,657)	\$ (141,557)
Basic and diluted earnings (loss) per share:			
Continuing operations			
Loss before cumulative effect of accounting changes	\$ (0.96)	\$ (2.17)	\$ (0.31)
Cumulative effect of accounting changes	—	—	—
Loss from continuing operations	\$ (0.96)	\$ (2.17)	\$ (0.31)
Discontinued operations	\$ 0.05	\$ 0.01	\$ 0.04
Net loss	\$ (0.92)	\$ (2.15)	\$ (0.27)
Weighted-average shares used in computing basic and diluted per share amounts:	530,721	527,117	525,967

See accompanying notes to the consolidated financial statements.

**SANMINA-SCI CORPORATION**

**CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**

	<b>Year Ended</b>		
	<b>September 27,</b>	<b>September 29,</b>	<b>September 30,</b>
	<b>2008</b>	<b>2007</b>	<b>2006</b>
		<b>(In thousands)</b>	
Net loss	\$ (486,349)	\$(1,134,657)	\$ (141,557)
Other comprehensive income (loss):			
Net unrealized loss on derivative financial instruments, net of tax	(11,891)	(11,376)	(240)
Foreign currency translation adjustments	8,340	26,798	933
Changes in unrecognized net actuarial loss and unrecognized transition costs, net of tax	(1,732)	3,030	—
Changes in minimum pension liability, net of tax	—	—	5,029
Comprehensive loss	<u>\$ (491,632)</u>	<u>\$(1,116,205)</u>	<u>\$ (135,835)</u>

See accompanying notes to the consolidated financial statements.

**SANMINA-SCI CORPORATION**

**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**

	Common Stock and Additional Paid in Capital			Treasury Stock		Accumulated Other Comprehensive	Accumulated	
	Number of Shares	Amount	Deferred Stock-based Compensation	Number of Shares	Amount	Income	Deficit	Total
	(In thousands)							
BALANCE AT OCTOBER 1, 2005	545,690	\$5,964,836	\$ (26,889)	(18,853)	\$(188,519)	\$ 36,886	\$ (3,402,503)	\$ 2,383,811
Exercise of common stock options	2,347	7,622	—	—	—	—	—	7,622
Issuances of common stock under employee stock purchase plan	1,500	5,226	—	—	—	—	—	5,226
Issuances of restricted stock and options, net of cancellations	2,243	—	—	—	—	—	—	—
Adoption of SFAS No. 123R	—	(26,889)	26,889	—	—	—	—	—
Cumulative translation adjustment	—	—	—	—	—	933	—	933
Unrealized loss on derivative financial instruments, net of tax	—	—	—	—	—	(240)	—	(240)
Change in minimum pension liability in excess of plan assets, net of tax	—	—	—	—	—	5,029	—	5,029
Stock-based compensation	—	7,581	—	—	—	—	—	7,581
Repurchase of treasury stock	—	—	—	(22)	2,158	—	—	2,158
Net loss	—	—	—	—	—	—	(141,557)	(141,557)
BALANCE AT SEPTEMBER 30, 2006	551,780	\$5,958,376	\$ —	(18,875)	\$(186,361)	\$ 42,608	\$ (3,544,060)	\$ 2,270,563
Cumulative effect of SAB No. 108 adjustment	—	7,134	—	—	—	—	(7,134)	—
Exercise of common stock options	1	3	—	—	—	—	—	3
Cancellations of restricted stock and options, net of issuances	(3,018)	—	—	—	—	—	—	—
Cumulative translation adjustment	—	—	—	—	—	26,798	—	26,798
Unrealized loss on derivative financial instruments, net of tax	—	—	—	—	—	(11,376)	—	(11,376)
Changes in unrecognized net actuarial loss and unrecognized transition costs, net of tax	—	—	—	—	—	3,030	—	3,030
Stock-based compensation, net of tax adjustments	—	17,479	—	—	—	—	—	17,479
Disposition of treasury stock	—	487	—	76	820	—	—	1,307
Net loss	—	—	—	—	—	—	(1,134,657)	(1,134,657)
BALANCE AT SEPTEMBER 29, 2007	548,763	\$5,983,479	\$ —	(18,799)	\$(185,541)	\$ 61,060	\$ (4,685,851)	\$ 1,173,147
Issuances of restricted stock and options, net of cancellations	1,318	(1)	—	—	—	—	—	(1)
Cumulative translation adjustment	—	—	—	—	—	8,340	—	8,340
Unrealized loss on derivative financial instruments, net of tax	—	—	—	—	—	(11,891)	—	(11,891)
Changes in unrecognized net actuarial loss and unrecognized transition costs, net of tax	—	—	—	—	—	(1,732)	—	(1,732)
Stock-based compensation	—	14,337	—	—	—	—	—	14,337
Repurchases of treasury stock	—	(709)	—	(273)	816	—	—	107
Net loss	—	—	—	—	—	—	(486,349)	(486,349)
BALANCE AT SEPTEMBER 27, 2008	550,081	\$5,997,106	\$ —	(19,072)	\$(184,725)	\$ 55,777	\$ (5,172,200)	\$ 695,958

See accompanying notes to the consolidated financial statements.

**SANMINA-SCI CORPORATION**

**CONSOLIDATED STATEMENTS OF CASH FLOWS**

	Year Ended		
	September 27, 2008	September 29, 2007 (In thousands)	September 30, 2006
<b>CASH FLOWS PROVIDED BY (USED IN) OPERATING ACTIVITIES:</b>			
Net loss	\$ (486,349)	\$ (1,134,657)	\$ (141,557)
Adjustments to reconcile net loss to cash provided by operating activities:			
Depreciation and amortization	96,820	117,194	138,597
Stock-based compensation expense	14,337	17,479	13,276
Proceeds from sales of accounts receivable	859,953	1,830,236	1,508,483
Non-cash restructuring costs (recovery)	2,928	(4,177)	24,028
Provision (benefit) for doubtful accounts, product returns and other net sales adjustments	(1,073)	3,186	(5,589)
Deferred income taxes	(1,478)	(3,633)	7,949
Gain on disposals of property, plant and equipment, net	(311)	(18,997)	(617)
Impairment of goodwill, tangible and other intangible assets	487,727	1,099,650	19,000
Loss on extinguishment of debt	2,237	3,175	84,600
Loss from sale of business	6,923	—	—
Other, net	(373)	(659)	6,424
Changes in operating assets and liabilities, net of acquisitions and divestitures:			
Accounts receivable	(610,003)	(1,521,309)	(1,548,718)
Inventories	197,792	260,085	(283,885)
Prepaid expenses and other assets	31,957	(65,046)	(28,968)
Accounts payable	(554,096)	(39,351)	(68,806)
Accrued liabilities and other long-term liabilities	(7,726)	(57,242)	(62,378)
<b>Cash provided by (used in) operating activities</b>	<b>39,265</b>	<b>485,934</b>	<b>(338,161)</b>
<b>CASH FLOWS PROVIDED BY (USED IN) INVESTING ACTIVITIES:</b>			
Purchases of short-term investments	(576)	(3,910)	(19,841)
Proceeds from maturities of short-term investments	13,289	6,461	80,739
Purchases of long-term investments	(150)	(400)	(1,823)
Proceeds from sales of long-term investments	4,904	1,329	—
Purchases of property, plant and equipment	(121,478)	(88,358)	(139,195)
Proceeds from sales of property, plant and equipment	30,564	50,231	42,461
Proceeds from sale of business	89,094	22,000	—
Cash paid for businesses acquired, net of cash acquired	(4,264)	(4,217)	(44,651)
<b>Cash provided by (used in) investing activities</b>	<b>11,383</b>	<b>(16,864)</b>	<b>(82,310)</b>
<b>CASH FLOWS USED IN FINANCING ACTIVITIES:</b>			
Change in restricted cash	—	—	22,460
Repurchase of convertible notes	—	—	(543)
Repayments of long-term debt	(120,000)	(1,125,000)	(750,929)
Proceeds from long-term debt, net of issuance costs	—	1,181,409	587,123
Interest rate swap termination associated with debt extinguishment	—	—	(29,785)
Redemption premium associated with debt extinguishment	—	—	(70,751)
Payment of consent fees	—	—	(12,475)
Additions to (payments of) notes and credit facilities, net	—	(100,184)	97,993
Proceeds from issuances of common stock	—	3	12,848
<b>Cash used in financing activities</b>	<b>(120,000)</b>	<b>(43,772)</b>	<b>(144,059)</b>
Effect of exchange rate changes	5,729	16,297	(11,694)
Increase (decrease) in cash and cash equivalents	(63,623)	441,595	(576,224)
Cash and cash equivalents at beginning of year	933,424	491,829	1,068,053
Cash and cash equivalents at end of year	<u>\$ 869,801</u>	<u>\$ 933,424</u>	<u>\$ 491,829</u>
<b>Supplemental disclosures of cash flow information:</b>			
Cash paid during the year			
Interest	\$ 116,970	\$ 150,113	\$ 121,671
Income taxes (excludes refunds of \$26.2 million, \$24.8 million, and \$34.9 million in 2008, 2007, and 2006, respectively)	\$ 35,768	\$ 47,106	\$ 61,981

See accompanying notes to the consolidated financial statements.

## SANMINA-SCI CORPORATION

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

#### Note 1. Organization of Sanmina-SCI

Sanmina-SCI Corporation ("Sanmina-SCI," "we," "us," or the "Company") was incorporated in Delaware in 1989. The Company is an independent global provider of customized, integrated electronics manufacturing services, or EMS. The Company provides these services to original equipment manufacturers, or OEMs, primarily in the communications, enterprise computing and storage, multimedia, industrial and semiconductor capital equipment, defense and aerospace, medical and automotive industries. The Company's services consist primarily of product design and engineering, including initial development, detailed design, prototyping, validation, preproduction services and manufacturing design, volume manufacturing of complete systems, components and subassemblies, final system assembly and test, direct order fulfillment and logistics services and after-market product service and support. System components and subassemblies that the Company manufactures include printed circuit boards, printed circuit board assembly, backplanes and backplane assemblies, enclosures, cable assemblies, precision machine components, optical modules and memory modules.

#### Reclassifications

Certain prior year balances have been reclassified to conform to the current year's presentation. In 2008, assets held-for-sale were reclassified from prepaid expenses and other current assets and presented separately on the consolidated balance sheets. Additionally, in 2008, other intangible assets, net were combined with other non-current assets for presentation on the consolidated balance sheets.

During 2008, the Company sold its personal computing and associated logistics business ("PC Business"). Accordingly, the consolidated statements of operations have been revised for all periods presented to reflect the PC Business as a discontinued operation.

#### Note 2. Summary of Significant Accounting Policies

*Fiscal Year.* The Company operates on a 52 or 53 week year ending on the Saturday nearest September 30. Fiscal years 2008, 2007 and 2006 were each 52 weeks. Fiscal 2009 will be 53 weeks. All references to years relate to fiscal years unless otherwise noted.

*Principles of Consolidation.* The consolidated financial statements include the Company's accounts and those of its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated.

*Foreign Currency Translation.* For foreign subsidiaries using the local currency as their functional currency, assets and liabilities are translated at exchange rates in effect at the balance sheet date and income and expenses are translated at average exchange rates. The effects of these translation adjustments are reported as a separate component of stockholders' equity. For foreign subsidiaries using the US dollar as their functional currency, remeasurement adjustments for non-functional currency monetary assets and liabilities are included in other income (expense), net in the accompanying consolidated statements of operations. Additionally, remeasurement gains (losses) with respect to long-term intercompany loans denominated in a currency other than the functional currency are charged or credited to accumulated other comprehensive income (loss) if repayment of the loan is not anticipated in the foreseeable future.

*Derivative Instruments and Hedging Activities.* The Company conducts business on a global basis in several currencies, which exposes the Company to adverse movements in foreign currency exchange rates. The Company uses various derivatives, such as foreign currency forward contracts and foreign



## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**Note 2. Summary of Significant Accounting Policies (Continued)**

currency option contracts, to minimize the volatility of earnings and cash flows associated with changes in foreign currency exchange rates.

The Company is also exposed to adverse movements in interest rates on its existing debt obligations. The Company uses interest rate swaps to minimize volatility in earnings and cash flows associated with changes in interest rates.

The Company accounts for derivative instruments and hedging activities in accordance with Statement of Financial Accounting Standards ("SFAS") No. 133, *"Accounting for Derivative Instruments and Hedging Activities"*, as amended by SFAS No. 138, *"Accounting for Certain Derivative Instruments and Hedging Activities—an Amendment of SFAS 133"*, and SFAS No. 149, *"Amendment of Statement 133 on Derivative Instruments and Hedging Activities"*. In accordance with these standards, each derivative instrument is recorded in the consolidated balance sheets at its fair value as either an asset or liability. If the derivative is designated as a cash flow hedge, the effective portion of changes in the fair value of the derivative is recorded in stockholders' equity as a separate component of accumulated other comprehensive income (loss) and is recognized in the consolidated statements of operations when the hedged item affects earnings. Ineffective portions of changes in the fair value of cash flow hedges are immediately recognized in other income (expense), net in the consolidated statement of operations. If the derivative is designated as a fair value hedge, changes in the fair value of the derivative and of the hedged item related to the hedged risk are recognized in earnings in the current period.

Derivative instruments are entered into for periods of time consistent with the related underlying exposures and are not entered into for speculative purposes. The Company documents all relationships between derivative instruments and related hedged items, as well as its risk-management objectives and strategies for undertaking various hedging transactions.

*Hedging of Forecasted Foreign Currency Transactions.* The Company utilizes foreign currency forward and option contracts to hedge certain operational (cash flow) exposures resulting from changes in foreign currency exchange rates. Such exposures result from portions of forecasted sales, cost of sales and expenses denominated in currencies other than the functional currency. These contracts are typically less than 12 months in duration and are accounted for as cash flow hedges under SFAS No. 133, subject to periodic assessment of effectiveness. The ineffective portion was not material for 2008, 2007 or 2006. At September 27, 2008 and September 29, 2007, the Company had forward and option contracts related to cash flow hedges in various foreign currencies in the aggregate notional amount of \$49.3 million and \$30.0 million, respectively. Unrealized gains or losses were not significant as of September 27, 2008.

*Hedging of Currency Exposures Associated with Certain Assets and Liabilities Denominated in Foreign Currencies.* The Company enters into short-term foreign currency forward contracts to hedge currency exposures associated with certain assets and liabilities denominated in foreign currencies. These contracts typically have maturities of three months or less and are not designated as part of a hedging relationship in accordance with SFAS No. 133. All outstanding foreign currency forward contracts are marked-to-market at the end of the period with unrealized gains and losses included in other income (expense), net in the consolidated statements of operations. At September 27, 2008 and September 29, 2007, the Company had outstanding foreign currency forward contracts to exchange various foreign currencies for U.S. dollars in the aggregate notional amount of \$341.6 million and \$279.5 million, respectively. Unrealized gains or losses were not significant as of September 27, 2008.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**Note 2. Summary of Significant Accounting Policies (Continued)**

*Hedging of Interest Rate Exposures.* The Company has interest rate swap agreements with four independent swap counterparties to hedge its interest rate exposures related to its \$400 million 6.75% Senior Subordinated Notes due in 2013 (the "6.75% Notes")—refer to note 10. The swap agreements, with an aggregate notional amount of \$400 million and expiration dates in 2013, effectively convert the fixed interest rate obligation to a variable rate obligation and are accounted for as fair value hedges under SFAS No. 133, but are exempt from periodic assessment of hedge effectiveness under Paragraph 68 of SFAS No. 133. Under the terms of the swap agreements, the Company pays the independent swap counterparties an interest rate equal to the six-month LIBOR rate plus a spread ranging from 2.214% to 2.250%. In exchange, the Company receives a fixed interest rate of 6.75%. The differential paid or received on the interest rate swaps is recognized in earnings as an adjustment to interest expense. At September 27, 2008 and September 29, 2007, the fair value of these swap agreements was \$2.0 million and \$11.9 million, respectively. These amounts have been recorded as adjustments to long-term debt, with offsetting amounts in other long-term liabilities. Interest expense for 2008 decreased by \$1.6 million and interest expense for 2007 and 2006 increased by \$3.9 million and \$0.9 million, respectively, as a result of these swaps.

The Company has interest rate swap agreements with two independent swap counterparties to hedge its interest rate exposures related to its \$300 million Senior Floating Rate Notes due in 2014 (the "2014 Notes")—refer to note 10. The swap agreements, with an aggregate notional amount of \$300 million and expiration dates in 2014, effectively convert the variable interest rate obligation to a fixed rate obligation and are accounted for as cash flow hedges under SFAS No. 133, subject to periodic assessment of hedge effectiveness. Under the terms of the swap agreements, the Company pays the independent swap counterparties a fixed interest rate of 5.594%. In exchange, the Company receives an interest rate equal to the three-month LIBOR. These swap agreements effectively fix the interest rate on the Company's 2014 Notes at 8.344% through 2014. Amounts in accumulated other comprehensive income (loss) will be reclassified to interest expense when the hedged interest expense is realized in the consolidated statements of operations. At September 27, 2008, \$22.9 million was recorded on the consolidated balance sheets in other long-term liabilities for the fair value of the interest rate swap agreements, with a corresponding decrease to accumulated other comprehensive income (loss). Over the next 12 months, the Company expects to reclassify approximately \$7.6 million to interest expense. The ineffective portion of the hedges was not material in 2008 or 2007.

The Company's foreign exchange forward and option contracts and interest rate swaps expose the Company to credit risk to the extent the counterparties may be unable to meet the terms of the agreement. The Company minimizes such risk by limiting its counterparties to major financial institutions. The Company has not incurred, and does not expect to incur, material losses as a result of default by counterparties.

*Management Estimates and Uncertainties.* The preparation of consolidated financial statements in conformity with generally accepted accounting principles in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Significant estimates made in preparing the consolidated financial statements relate to allowances for accounts receivable; provisions for inventories; product returns; warranties; restructuring costs; environmental matters; legal exposures; determining the realizability of deferred tax assets; determining fair values of

# SANMINA-SCI CORPORATION

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

### Note 2. Summary of Significant Accounting Policies (Continued)

reporting units for purposes of goodwill impairment tests; determining fair value of tangible and intangible assets for purposes of impairment tests and determining forfeiture rates, volatility and expected life assumptions for purposes of stock compensation expense calculations. Actual results could differ materially from these estimates.

*Financial Instruments and Concentration of Credit Risk.* Financial instruments consist of cash and cash equivalents, foreign currency forward and option contracts, interest rate swap agreements, accounts receivable, accounts payable and short and long-term debt obligations. With the exception of certain of the Company's long-term debt obligations—refer to note 3, the fair value of these financial instruments approximates their carrying amount as of September 27, 2008 and September 29, 2007 due to the nature, or short maturity, of these instruments, or the fact that the instruments are recorded at fair value in the consolidated balance sheets.

*Cash and Cash Equivalents.* The Company considers all highly-liquid investments with a remaining maturity of three months or less at the time of purchase to be cash equivalents.

The Company invests daily surplus funds overnight in institutional money market funds. The money market funds invest in highly rated and highly liquid fixed income securities with the primary objectives of capital preservation, liquidity and a level of current income consistent with their investment policies. Money market funds typically invest in government securities, certificates of deposit, corporate commercial paper, or other highly-liquid and low-risk securities. Money market funds attempt to keep their net asset value at a constant \$1.00 per share.

Cash and cash equivalents consisted of the following:

	As of	
	September 27,	September 29,
	2008	2007
	(In thousands)	
Cash and bank balances	\$ 521,944	\$ 663,899
Money market funds	347,171	269,457
Other security funds	686	68
Total	<u>\$ 869,801</u>	<u>\$ 933,424</u>

*Long-Term Investments.* The Company has investments in non-public companies which are carried at cost. The Company monitors these investments for other-than-temporary impairment and records appropriate reductions in carrying value when necessary. As of September 27, 2008 and September 29, 2007, total long-term investments were \$6.2 million and \$11.0 million, respectively. Long-term investments are classified in the consolidated balance sheets as other non-current assets.

*Accounts Receivable and Other Related Allowances.* The Company estimates uncollectible balances, product returns and other adjustments related to current period net sales and had allowances of \$14.9 million and \$16.7 million as of September 27, 2008 and September 29, 2007, respectively. One of the Company's most significant risks is the ultimate realization of its accounts receivable. This risk is mitigated by ongoing credit evaluations of customers and frequent contact with customers, especially the most significant customers, which enables the Company to monitor changes in its customers' business operations and respond accordingly. To establish the allowance for doubtful accounts, the

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 2. Summary of Significant Accounting Policies (Continued)**

Company estimates credit risk associated with accounts receivable by analyzing the creditworthiness of its customers, past experience, changes in customer demand, and the overall economic climate in industries that it serves. To establish the allowance for product returns and other adjustments, the Company primarily utilizes data regarding historical adjustments.

*Sales of Accounts Receivable.* The Company accounts for sales of accounts receivable in accordance with SFAS No. 140, "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liability" as amended by SFAS No. 156, "Accounting for Servicing of Financial Assets an Amendment of FASB Statement No. 140". When the Company sells receivables, it retains servicing rights to the underlying accounts receivable. The fair value of retained servicing rights is not material.

Any retained interest resulting from a sale is classified as prepaid expenses and other current assets in the consolidated balance sheets. Accounts receivable balances that are sold are removed from the consolidated balance sheets and the related proceeds are reported as cash provided by operating activities in the consolidated statements of cash flows.

*Inventories.* Inventories are stated at the lower of cost (first-in, first-out method) or market. Cost includes labor, material and manufacturing overhead.

Provisions are made to reduce excess inventories to their estimated net realizable values. The ultimate realization of inventory carrying amounts is primarily affected by changes in customer demand. Inventory reserves are established based on forecasted demand, past experience with specific customers, the ability to redistribute inventory to other programs or back to suppliers, and whether customers are contractually obligated to pay for the related inventory. Payments received from customers for excess inventory held by the Company are recorded as a reduction of inventory.

*Assets Held For Sale.* In accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets", the Company classifies long-lived assets to be sold as held for sale in the period in which all of the following criteria are met: management having the appropriate authority, commits to a plan to sell the asset, the asset is available for immediate sale in its present condition, an active program to locate a buyer and other actions required to sell the asset have been initiated, the sale of the asset is probable and expected to occur within one year, the asset is being actively marketed for sale at a price that is reasonable in relation to its fair value and actions required to complete the plan indicate that it is unlikely significant changes to the plan will be made or that the plan will be withdrawn.

Assets held for sale are not depreciated and are measured at the lower of carrying amount or fair value less costs to sell. During 2008, the Company recorded impairment charges of \$7.6 million related to assets held for sale.

*Property, Plant and Equipment, net.* Property, plant and equipment are stated at cost or, in the case of property and equipment acquired through business combinations accounted for as a purchase, at fair value based upon the allocated purchase price at the acquisition date. Depreciation and amortization are provided on a straight-line basis over 20 to 40 years for buildings, five to 20 years for machinery, equipment, furniture and fixtures or, in the case of leasehold improvements, over the term of the related lease, if shorter.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**Note 2. Summary of Significant Accounting Policies (Continued)**

The Company reviews long-lived tangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset or asset group may not be recoverable in accordance with SFAS No. 144. An asset is considered impaired if its carrying amount exceeds the undiscounted future net cash flows the asset is expected to generate. If an asset or asset group is considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the asset exceeds its fair value. For asset groups for which the primary asset is a building, the Company estimates fair value based on data provided by commercial real estate brokers. For other asset groups, the Company estimates fair value based on projected discounted future net cash flows using a discount rate reflecting its average cost of capital.

**Restructuring Costs.** The Company recognizes restructuring costs resulting from excess manufacturing or administrative facilities that it chooses to close or consolidate, as well as from other exit activities. In connection with the Company's exit activities, the Company records restructuring charges for employee termination costs, long-lived asset impairments, costs related to leased facilities to be abandoned or subleased, and other exit-related costs. These charges are incurred pursuant to formal plans developed and approved by management and accounted for in accordance with SFAS No. 146, *"Accounting for Costs Associated with Exit or Disposal Activities"*, and EITF 95-3, *"Recognition of Liabilities in Connection with a Purchase Business Combination"*. When applicable, employee termination costs are recorded pursuant to SFAS No. 112, *"Employer's Accounting for Postemployment Benefits"*. Pursuant to SFAS No. 112, restructuring costs related to employee severance are recorded when probable and estimable. Fixed assets that are written-off or impaired as a result of restructuring plans are typically accounted for as assets held for sale or are abandoned. The recognition of restructuring charges requires the Company's management to make judgments and estimates regarding the nature, timing, and amount of costs associated with the planned exit activity, including estimating sublease income and the fair value, less selling costs, of property, plant and equipment to be disposed of. Estimates of future liabilities may change, requiring the Company to record additional restructuring charges or to reduce the amount of liabilities already recorded. At the end of each reporting period, the Company evaluates the remaining accrued balances to ensure their adequacy, that no excess accruals are retained and that the utilization of the provisions is for the intended purpose in accordance with developed exit plans. In the event circumstances change and the provision is no longer required, the provision is reversed.

**Goodwill.** Costs in excess of the fair value of tangible and other intangible assets acquired and liabilities assumed in a purchase business combination are recorded as goodwill. SFAS No. 142, *"Goodwill and Other Intangible Assets"*, requires that companies not amortize goodwill, but instead test for impairment at least annually using a two-step approach. The Company evaluates goodwill, at a minimum, on an annual basis and whenever events and changes in circumstances suggest that the carrying amount may not be recoverable. Impairment of goodwill is tested at the reporting unit level by comparing the reporting unit's carrying amount, including goodwill, to the fair value of the reporting unit. The fair values of the reporting units are estimated using a combination of the income, or discounted cash flows, approach and the market approach, which utilizes comparable companies' data. If the carrying amount of the reporting unit exceeds its fair value, goodwill is considered impaired and a second step is performed to measure the amount of impairment. The second step involves determining the fair value of goodwill for each reporting unit. Any excess carrying amount of goodwill over the fair value determined in the second step will be recorded as a goodwill impairment loss.

## SANMINA-SCI CORPORATION

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

#### Note 2. Summary of Significant Accounting Policies (Continued)

*Other Intangible Assets.* The Company has certain other intangible assets that are subject to amortization. These assets consist primarily of intellectual property and customer relationships obtained in acquisitions, which are carried at cost less accumulated amortization, and are amortized to expense on a straight-line basis over estimated useful lives ranging from five to eight years.

The Company reviews other intangible assets for impairment in accordance with SFAS No. 144 whenever events or changes in circumstances indicate that the carrying amount of an asset or asset group may not be recoverable. An asset is considered impaired if its carrying amount exceeds the undiscounted future net cash flows the asset is expected to generate. If an asset or asset group is considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the asset exceeds its fair value. The Company estimates fair value primarily based on projected discounted future net cash flows using a discount rate reflecting its average cost of capital.

*Revenue Recognition.* The Company derives revenue principally from sales of manufacturing services, as well as from other services such as order fulfillment and logistic services, and sales of certain inventory, including raw materials, to customers who may reschedule, amend or cancel purchase orders after the Company has procured inventory to fulfill the customers' purchase orders. The Company recognizes revenue for manufacturing services and sales of certain inventory when a persuasive arrangement between the Company and the buyer exists, the price is fixed or determinable, title to the product or the inventory is transferred to the customer and collectibility is reasonably assured. Generally, there are no formal customer acceptance requirements or further obligations related to the product or the inventory subsequent to transfer of title. In specific instances in which there are customer acceptance requirements or the Company has further non-warranty related obligations, revenue is recognized upon formal acceptance or completion of the Company's obligations. Provisions are made for estimated sales returns and other adjustments at the time revenue is recognized. Such provisions were not material to the consolidated financial statements for any period presented herein. In specific circumstances in which the Company is acting as an agent on behalf of the customer on procurement and shipment of goods in accordance with EITF 99-19, "*Reporting Revenue Gross as a Principal versus Net as an Agent*", gross revenue is not recognized on the sale of the goods. Instead, revenue is recognized net of the costs of the goods sold. For sales of other services, revenue is recognized when the services have been performed. The Company presents sales net of sales taxes and value-added taxes in its consolidated statements of operations in accordance with EITF 06-3, "*How Taxes Collected From Customers and Remitted to Governmental Authorities Should Be Presented in the Income Statement*". Amounts billed to customers for shipping and handling are recorded as revenue, and the Company's shipping and handling costs are included in cost of sales.

*Warranty Reserve.* The Company establishes a warranty reserve for shipped products based on individual manufacturing contract requirements and past warranty experience. At each period end, the balance is reviewed to ensure its adequacy.

*Income taxes.* The Company estimates its income tax provision or benefit in each of the jurisdictions in which it operates, including estimating exposures and making judgments regarding the realizability of deferred tax assets. The carrying value of the Company's net deferred tax assets is based on its belief that it is more likely than not that the Company will generate sufficient future taxable income in certain jurisdictions to realize these deferred tax assets. A valuation allowance has been established for deferred tax assets which the Company does not believe meet the "more likely than not" criteria established by SFAS No. 109, "*Accounting for Income Taxes*". The Company's judgments

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**Note 2. Summary of Significant Accounting Policies (Continued)**

regarding future taxable income may change due to changes in market conditions or tax laws, tax planning strategies or other factors. If the Company's assumptions and consequently its estimates change in the future, the valuation allowances it has established may be increased or decreased, resulting in a respective increase or decrease in income tax expense. The Company's tax rate is highly dependent upon the geographic distribution of its worldwide income or losses, the tax regulations and tax holidays in each geographic region, the availability of tax credits and carryforwards, and the effectiveness of its tax planning strategies.

The Company adopted Financial FASB Interpretation No. 48, "*Accounting for Uncertainty in Income Taxes—an interpretation of FASB Statement No. 109*", ("FIN 48"), on the first day of 2008. Application of this interpretation involves an assessment of whether each income tax position is "more likely than not" of being sustained on audit, including resolution of related appeals or litigation process, if any. For each income tax position that meets the "more likely than not" recognition threshold, the Company then assesses the largest amount of tax benefit that is greater than 50% likely of being realized upon effective settlement with the tax authority.

There was no cumulative effect to retained earnings of adopting FIN 48. As part of its FIN 48 adoption, the Company reclassified \$18.8 million from current taxes payable to non-current taxes payable based on the expectation of cash payments to be made within 12 months.

*Earnings Per Share.* Basic and diluted net loss per share are computed by dividing net loss by the weighted average number of shares of common stock outstanding during the period.

*Stock-Based Compensation.* The Company recognizes stock-based compensation expense in accordance with SFAS No. 123R, "*Share-Based Payment*", which requires the measurement and recognition of compensation expense based on estimated fair values for all stock-based awards made to employees and directors, including employee stock options, restricted stock units and awards and stock purchase rights.

The Company uses the Black-Scholes option pricing model to estimate the fair value of stock-based awards. The Black-Scholes model requires the use of highly subjective and complex assumptions, including the option's expected term and the price volatility of the underlying stock. The expected term of options is based on observed historical exercise patterns. Expected volatility is an equally-weighted blend of implied volatilities from traded options on the Company's stock having a life of more than six months and historical volatility over the expected life of the options. For restricted stock units and awards, compensation expense is calculated based on the fair market value of the Company's stock on the date of grant. With respect to performance restricted stock units, compensation expense is recognized only when it is deemed probable that the performance probability criteria will be met.

*Recent Accounting Pronouncements.* In March 2008, the FASB issued SFAS No. 161, "*Disclosures about Derivative Instruments and Hedging Activities, an amendment of FASB Statement No. 133*". SFAS No. 161 amends and expands the disclosure requirements of SFAS No. 133 with the intent to provide users of financial statements with an enhanced understanding of how and why an entity uses derivative instruments, how derivative instruments and the related hedged items are accounted for under SFAS No. 133 and its related interpretations, fair value disclosures and how derivative instruments and related hedged items affect an entity's financial position, financial performance and cash flows. SFAS No. 161 will be effective at the beginning of 2010.

# SANMINA-SCI CORPORATION

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

### Note 2. Summary of Significant Accounting Policies (Continued)

In December 2007, the FASB issued SFAS No. 141(R) (Revised 2007), "*Business Combinations*". This statement defines the acquirer as the entity that obtains control of one or more businesses in the business combination, establishes the acquisition date as the date that the acquirer achieves control and requires the acquirer to recognize the assets acquired, liabilities assumed and any noncontrolling interest at their fair values as of the acquisition date. In addition, SFAS No. 141(R) requires capitalization of acquisition-related and restructure-related costs, remeasurement of earnout provisions at fair value, measurement of equity securities issued at the date of close of the transaction and capitalization of in-process research and development related intangibles. SFAS No. 141(R) is effective for the Company's business combinations for which the acquisition date is on or after the beginning of 2010.

In February 2007, the FASB issued SFAS No. 159, "*The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115*". SFAS No. 159 is expected to expand the use of fair value accounting but does not affect existing standards which require certain assets or liabilities to be carried at fair value. The objective of SFAS No. 159 is to improve financial reporting by providing companies with the opportunity to mitigate volatility in reported earnings caused by measuring related assets and liabilities differently without having to apply complex hedge accounting provisions. Under SFAS No. 159, a company may choose, at specified election dates, to measure eligible items at fair value and report unrealized gains and losses in earnings at each subsequent reporting date. For the Company, SFAS No. 159 is effective for financial statements issued in 2009, and interim periods within. The Company is currently assessing the impact of SFAS No. 159 on its consolidated results of operations and financial position.

In September 2006, the FASB issued SFAS No. 157, "*Fair Value Measurements*". SFAS No. 157 defines fair value, establishes a framework and gives guidance regarding the methods used for measuring fair value, and expands disclosures about fair value measurements. For the Company, SFAS No. 157 is effective for financial statements issued in 2009 and interim periods within. The Company is currently assessing the impact of SFAS No. 157 on its consolidated results of operations and financial position.

### Note 3. Financial Instruments and Concentration of Credit Risk

The estimated fair values of the Company's long-term debt obligations, based on quoted market prices, as of September 27, 2008 were as follows:

	<u>Carrying Amount</u>	<u>Fair Value</u>
	<u>(In thousands)</u>	
8.125% Senior Subordinated Notes due 2016	\$600,000	\$525,000
6.75% Senior Subordinated Notes due 2013	\$400,000	\$368,000
\$300 Million Senior Floating Rate Notes due 2010	\$180,000	\$177,300
\$300 Million Senior Floating Rate Notes due 2014	\$300,000	\$271,500

Financial instruments that potentially subject the Company to credit risk consist of cash, cash equivalents, trade accounts receivable, foreign exchange forward and option contracts, and interest rate swap agreements. The carrying value of assets such as cash, cash equivalents and accounts receivable is expected to approximate fair value due to the assets' short duration. Foreign exchange forward and option contracts and interest rate swap agreements are recorded on the Company's balance sheets at



# SANMINA-SCI CORPORATION

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

### Note 3. Financial Instruments and Concentration of Credit Risk (Continued)

fair value. The Company maintains the majority of its cash and cash equivalents with recognized financial institutions that follow its investment policy. The Company has not experienced any significant losses on these investments to date. One of the most significant credit risks is the ultimate realization of accounts receivable. This risk is mitigated by ongoing credit evaluations of the Company's customers and frequent contact with the Company's customers, especially its most significant customers, thus enabling it to monitor changes in business operations and respond accordingly. The Company generally does not require collateral for sales on credit. The Company considers these concentrations of credit risks when estimating its allowance for doubtful accounts.

For 2008 and 2006, no customer represented 10% or more of the Company's net sales and gross accounts receivable. For 2007, one customer represented 10.4% of the Company's net sales, but less than 10% of gross accounts receivable at year end.

### Note 4. Inventories

Components of inventories were as follows:

	As of	
	September 27,	September 29,
	2008	2007
	(In thousands)	
Raw materials	\$ 591,119	\$ 770,208
Work-in-process	106,784	146,675
Finished goods	115,456	142,973
Total	<u>\$ 813,359</u>	<u>\$ 1,059,856</u>

### Note 5. Property, Plant and Equipment, net

During 2008, the Company completed an analysis of useful life estimates for certain machinery and equipment. As a result, the estimated useful lives of certain machinery and equipment were extended to better align depreciation expense with the term of the expected future economic benefit of the assets. The machinery and equipment for which useful lives were changed had a net book value of \$90.8 million and an average remaining useful life of 36 months, prior to the change in estimate. The impact of this change was not material to the Company's consolidated results of operations for 2008.

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 5. Property, Plant and Equipment, net (Continued)**

Property, plant and equipment consisted of the following:

	As of	
	September 27, 2008	September 29, 2007
	(In thousands)	
Machinery and equipment	\$ 1,426,341	\$ 1,490,195
Furniture and fixtures	20,919	21,286
Leasehold improvements	52,511	58,103
Land and buildings	519,960	504,298
	2,019,731	2,073,882
Less: Accumulated depreciation and amortization	(1,441,496)	(1,497,963)
	578,235	575,919
Construction in progress	21,673	33,475
Property, plant and equipment, net	<u>\$ 599,908</u>	<u>\$ 609,394</u>

Depreciation expense was \$89.3 million, \$109.6 million and \$128.3 million for 2008, 2007 and 2006, respectively.

**Note 6. Goodwill and Other Intangible Assets**

Goodwill was as follows (in thousands):

	As of September 29, 2007	Goodwill Impairment	Adjustments to Goodwill	As of September 27, 2008
Electronic Manufacturing Services reporting unit	\$ 478,647	\$(478,686)	\$ 39	\$ —
Discontinued operations	32,022	—	(32,022)	—
Total	<u>\$ 510,669</u>	<u>\$(478,686)</u>	<u>\$ (31,983)</u>	<u>\$ —</u>

During 2008, the Company's annual impairment test was performed as of the beginning of its fourth quarter and did not result in an impairment of goodwill. However, in September, due to the expected effect of general economic conditions on the Company's future cash flows, the illiquidity of credit markets and the decline in the stock market generally, and the Company's stock price in particular, the Company performed another goodwill impairment test as of September 27, 2008. Based on the results of the second test, the Company determined its goodwill was impaired and recorded an impairment charge of \$478.7 million in 2008.

During 2008, the Company sold its personal computing and associated logistics business ("PC Business") in two separate transactions. The PC Business has been accounted for as a discontinued operation. See note 20 for a discussion of Discontinued Operations. Goodwill related to discontinued operations of \$32.0 million was reduced to zero upon completion of the sale of the PC Business.

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 6. Goodwill and Other Intangible Assets (Continued)**

The Company recorded an impairment charge of \$1.0 billion in 2007 associated with each of its reporting units due to a decline in total net sales, both domestically and internationally, a decrease in expected future cash flows and a decline in the Company's stock price.

The gross and net carrying values of other intangible assets were as follows:

	As of September 27, 2008				As of September 29, 2007			
	Gross	Impairment	Accumulated	Net	Gross	Impairment	Accumulated	Net
	Carrying	of	Amortization	Carrying	Carrying	of	Amortization	Carrying
	Amount	Intangibles		Amount	Amount	Intangibles		Amount
	(In thousands)							
Other Intangible assets	\$72,106	\$ (7,928)	\$ (49,529)	\$14,649	\$72,106	\$ (7,928)	\$ (41,960)	\$22,218

Intangible asset amortization expense was \$7.6 million (including \$1.0 million in cost of sales), \$7.6 million (including \$1.0 million in cost of sales) and \$10.3 million (including \$0.7 million in cost of sales) for 2008, 2007 and 2006, respectively. Other intangible assets are included in other non-current assets on the consolidated balance sheets.

Estimated future annual amortization of other intangible assets is as follows:

Year Ended:	(In thousands)
2009	\$ 4,988
2010	2,924
2011	2,040
2012	1,285
2013	364
Thereafter	3,048
Total	\$ 14,649

**Note 7. Accumulated Other Comprehensive Income**

Accumulated other comprehensive income, net of tax as applicable, consists of the following:

	As of	
	September 27, 2008	September 29, 2007
	(In thousands)	
Foreign currency translation adjustments	\$ 82,303	\$ 73,963
Unrealized holding losses on derivative financial instruments	(23,267)	(11,376)
Unrecognized net actuarial loss and unrecognized transition cost	(3,259)	(1,527)
Total	\$ 55,777	\$ 61,060

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 8. Earnings Per Share**

Basic and diluted amounts per share are computed by dividing net income or loss by the weighted average number of shares of common stock outstanding during the period, as follows:

	Year Ended		
	September 27,	September 29,	September 30,
	2008	2007	2006
	(In thousands, except per share amounts)		
<b>Numerator:</b>			
Loss from continuing operations before cumulative effect of accounting changes	\$ (511,336)	\$(1,141,493)	\$ (164,295)
Cumulative effect of accounting changes, net of tax	—	—	2,830
Loss from continuing operations	(511,336)	(1,141,493)	(161,465)
Income from discontinued operations, net of tax	24,987	6,836	19,908
Net Loss	<u>\$ (486,349)</u>	<u>\$(1,134,657)</u>	<u>\$ (141,557)</u>
<b>Denominator:</b>			
Weighted average number of shares—basic and diluted	530,721	527,117	525,967
Basic and diluted income (loss) per share from:			
Continuing operations	\$ (0.96)	\$ (2.17)	\$ (0.31)
Discontinued operations	\$ 0.05	\$ 0.01	\$ 0.04
Net loss	\$ (0.92)	\$ (2.15)	\$ (0.27)

The following table presents the weighted average dilutive securities that were excluded from the above calculation because their inclusion would have had an anti-dilutive effect (in thousands):

	Year Ended		
	September 27,	September 29,	September 30,
	2008	2007	2006
<b>Potentially dilutive securities:</b>			
Employee stock options	45,541	46,491	52,309
Restricted awards and units	4,132	3,135	2,325
Shares issuable upon conversion of 3% notes	—	6	12,699
<b>Total</b>	<u>49,673</u>	<u>49,632</u>	<u>67,333</u>

Had the Company reported net income instead of a net loss in 2008, approximately 300,000 shares, out of 49.7 million potentially dilutive securities, would have been included in the calculation of diluted earnings per share.

There were no outstanding convertible debentures in 2008. After-tax interest expense of \$5.0 million and \$10.8 million related to convertible debentures for 2007 and 2006, respectively, were

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 8. Earnings Per Share (Continued)**

not included in the calculation of diluted loss per share because to do so would have been anti-dilutive. In addition, the related share equivalents on conversion of the debt were not included as to do so would have been anti-dilutive.

**Note 9. Stock-Based Compensation**

Stock-based compensation expense, excluding a \$3.9 million tax benefit in 2007 and a \$5.7 million benefit from a cumulative effect of accounting changes in 2006, was as follows:

	Year Ended		
	September 27,	September 29,	September 30,
	2008	2007	2006
	(In thousands)		
Cost of sales	\$ 6,556	\$ 7,459	\$ 6,141
Selling, general & administrative	7,073	12,568	6,116
Research & development	307	565	674
Continuing operations	13,936	20,592	12,931
Discontinued operations	401	800	345
Total	<u>\$ 14,337</u>	<u>\$ 21,392</u>	<u>\$ 13,276</u>

	Year Ended		
	September 27,	September 29,	September 30,
	2008	2007	2006
	(In thousands)		
Stock options	\$ 7,932	\$ 4,693	\$ 5,798
Employee stock purchase plan	—	—	4,152
Restricted stock awards	160	11,539	2,513
Restricted stock units	5,844	4,360	468
Continuing operations	13,936	20,592	12,931
Discontinued operations	401	800	345
Total	<u>\$ 14,337</u>	<u>\$ 21,392</u>	<u>\$ 13,276</u>

**Stock Options**

The Company's stock option plans provide employees the right to purchase common stock at the fair market value of such shares on the grant date. The Company recognizes compensation expense for such awards over the vesting period, which is generally five years. The contractual term of all options is ten years. For option grants made prior to 2006, the Company recognizes compensation expense using the multiple option approach. For option grants made subsequent to the adoption of SFAS No. 123R, the Company recognizes compensation expense ratably over the service period.

In 2007, the Company executed tender offers to exchange certain outstanding options to purchase shares of its common stock, whether vested or unvested, for new options that were granted under its 1999 Stock Plan (the "Exchange Offer"). A total of 2,000 eligible option holders participated. Subject to the terms and conditions of the Exchange Offer, the Company granted new options to purchase an

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 9. Stock-Based Compensation (Continued)**

aggregate of 17,785,751 shares of its common stock in exchange for the options tendered and accepted pursuant to the Exchange Offer. The Company is recognizing \$17.0 million of expense over a three year period in connection with this exchange.

Assumptions used to estimate the fair value of stock options granted, excluding the Exchange Offer, were as follows:

	Year Ended		
	September 27, 2008	September 29, 2007	September 30, 2006
Volatility	61.1%	54.3%	57.0%
Risk-free interest rate	3.23%	4.64%	4.68%
Dividend yield	0%	0%	0%
Expected life of options	5.0 years	5.3 years	5.4 years

A summary of stock option activity is as follows:

	Number of Shares	Weighted- Average Exercise Price (\$)	Weighted- Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value of In-The-Money Options (\$)
Outstanding, October 1, 2005	56,470,357	8.96	6.54	4,108,148
Exercisable, October 1, 2005	53,811,115	9.19	6.49	3,437,315
Granted	7,419,000	4.10		
Exercised	(2,347,027)	3.25		
Cancelled/Forfeited/Expired	(10,828,576)	9.13		
Outstanding, September 30, 2006	50,713,754	8.47	6.22	458,342
Exercisable, September 30, 2006	43,818,552	9.16	5.77	338,150
Granted	24,641,294	3.35		
Exercised/Cancelled/Forfeited/Expired	(32,321,344)	7.73		
Outstanding, September 29, 2007	43,033,704	6.10	7.50	28,921
Exercisable, September 29, 2007	18,438,096	9.72	4.77	5,795
Granted	10,451,884	1.69		
Cancelled/Forfeited/Expired	(7,226,346)	5.87		
Outstanding, September 27, 2008	46,259,242	5.14	7.31	1,116,547
Vested and expected to vest, September 27, 2008	40,985,668	5.45	7.11	877,772
Exercisable, September 27, 2008	21,616,371	7.93	5.54	777

The weighted-average grant date fair value per share of stock options granted was \$0.90, \$0.99, and \$2.56 during 2008, 2007, and 2006, respectively. The aggregate intrinsic value in the preceding table represents the total pre-tax intrinsic value of in-the-money options that would have been received by the option holders had all option holders exercised their options at the Company's September 26, 2008 stock price of \$1.64 per share. The total number of in-the-money options exercisable as of September 27, 2008 was 54,932 and the weighted average exercise price was \$1.63.

## SANMINA-SCI CORPORATION

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

#### **Note 9. Stock-Based Compensation (Continued)**

At September 27, 2008, an aggregate of 64.0 million shares were authorized under the Company's stock plans, which includes stock options, stock purchase rights and restricted stock awards and units. A total of 6.0 million shares of common stock were available for grant under the Company's stock plans as of September 27, 2008. Awards that expire or are cancelled without delivery of shares generally become available for issuance under the plans.

As of September 27, 2008, there was \$31.6 million of total unrecognized compensation expense related to stock options. This amount is expected to be recognized over a weighted average period of 3.87 years.

#### ***Restricted Stock Awards***

The Company grants awards of restricted stock to executive officers, directors and certain management employees. These awards vest over periods ranging from one to four years. In 2007, based on updated forfeiture information, the Company divided restricted stock awards into three separate groups. Each group has its own estimated forfeiture rate based on historical information and management's future expectations. Compensation expense associated with these awards is recognized ratably over the vesting period.

Compensation expense for 2008 was \$0.2 million. During 2007, the Company revised its estimated forfeiture rate. As a result, stock-based compensation expense increased to \$12.0 million in 2007 from \$2.6 million in 2006.

No restricted stock awards were granted during 2008 or 2007. There were 103,698 restricted stock awards granted during 2006 with a weighted-average grant date per share fair value of \$3.90. At September 27, 2008, unrecognized compensation expense related to restricted stock awards was \$0.1 million, which is expected to be recognized in 2009.

In 2006, a one-time, non-cash benefit of \$5.4 million was recorded as a cumulative effect of accounting change to reflect estimated future forfeitures of restricted stock awards previously expensed.

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 9. Stock-Based Compensation (Continued)**

A summary of activities related to nonvested restricted shares is as follows:

		Weighted Average
	Number of Shares	Grant-Date Fair Value (\$)
Nonvested at October 1, 2005	3,845,292	11.27
Granted	103,698	3.90
Vested	—	—
Forfeited	(910,500)	10.65
Nonvested at September 30, 2006	3,038,490	10.43
Granted	—	—
Vested	(136,929)	6.17
Forfeited	(215,000)	11.67
Nonvested at September 29, 2007	2,686,561	10.54
Granted	—	—
Vested	(2,521,561)	10.78
Forfeited	—	—
Nonvested at September 27, 2008	<u>165,000</u>	6.97

***Restricted Stock Units***

During 2006, the Company began issuing restricted stock units to executive officers, directors and certain management employees. These units vest over periods ranging from one to four years. The units are automatically exchanged for shares of common stock at the vesting date. Compensation expense associated with these units is recognized ratably over the vesting period.

Compensation expense was \$5.8 million, \$4.4 million and \$0.5 million for 2008, 2007 and 2006, respectively.

The weighted-average grant date per share fair value of restricted stock units granted was \$1.63, \$3.46 and \$4.79 in 2008, 2007 and 2006, respectively. At September 27, 2008, unrecognized expense related to restricted stock units was approximately \$9.9 million. This expense is expected to be recognized over a weighted average period of 1.15 years.



**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 9. Stock-Based Compensation (Continued)**

A summary of nonvested restricted share units is as follows:

	Number of Shares	Weighted- Grant Date Fair Value Per Share (\$)	Weighted- Average Remaining Contractual Term (Years)	Aggregate Intrinsic (\$)
Non vested restricted stock units at October 1, 2005	—	—	—	—
Granted	1,612,250	4.79		
Vested	—	—		
Cancelled	(85,750)	4.72		
Non vested restricted stock units at September 30, 2006	1,526,500	4.79	3.54	5,709,110
Granted	5,281,459	3.46		
Vested	(81,669)	3.91		
Cancelled	(671,000)	4.18		
Non vested restricted stock units at September 29, 2007	6,055,290	3.71	1.84	12,837,215
Granted	524,724	1.63		
Vested	(1,278,025)	3.33		
Cancelled	(475,499)	4.26		
Non vested restricted stock units at September 27, 2008	4,826,490	3.53	1.15	7,915,444
Non vested restricted stock units expected to vest at September 27, 2008	3,946,397	3.55	1.15	6,472,092

***Employee Stock Purchase Plan***

In 2003, the Board of Directors and stockholders of the Company approved the 2003 Employee Stock Purchase Plan (the "2003 ESPP"). Under the 2003 ESPP, employees may purchase, on a periodic basis, a limited number of shares of common stock through payroll deductions over a six-month period. The per share purchase price is 85% of the fair market value of the stock at the beginning or end of the offering period, whichever is lower. The 2003 ESPP was treated as a compensatory plan and was suspended at the beginning of 2007. As a result, no compensation expense was recognized in 2008 or 2007 for this plan. As of September 27, 2008, approximately 6,133,231 shares are available for issuance under the 2003 ESPP.

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 10. Debt**

Long-term debt consisted of the following:

	As of	
	September 27, 2008	September 29, 2007
	(In thousands)	
\$300 Million Senior Floating Rate Notes due 2010	\$ 180,000	\$ 300,000
\$300 Million Senior Floating Rate Notes due 2014	300,000	300,000
8.125% Senior Subordinated Notes due 2016	600,000	600,000
6.75% Senior Subordinated Notes due 2013	400,000	400,000
Interest Rate Swaps at estimated fair value	1,985	(11,928)
Total	<u>\$ 1,481,985</u>	<u>\$ 1,588,072</u>

*Senior Floating Rate Notes.* On June 12, 2007, the Company issued \$300 million of Senior Floating Rate Notes due 2010 (the "2010 Notes") and \$300 million of Senior Floating Rate Notes due 2014 (the "2014 Notes"). The notes accrue interest equal to the three-month LIBOR plus 2.75%. The 2010 Notes mature on June 15, 2010 and the 2014 Notes mature on June 15, 2014. As of September 27, 2008, unamortized debt issuance costs were \$8.0 million, which were included in other non-current assets on the consolidated balance sheet and are being amortized to interest expense over the life of the debt using the effective interest method.

The Notes are senior unsecured obligations of the Company and rank equal in right of payment with all of the Company's existing and future senior unsecured debt. The Company may redeem the 2010 Notes, in whole or in part, at any time, at par plus accrued and unpaid interest. The Company may redeem the 2014 Notes, in whole or in part, at redemption prices ranging from 100% to 102% of the principal amount of the 2014 Notes, plus accrued and unpaid interest.

On December 18, 2007, the Company redeemed \$120.0 million of the 2010 Notes at par. Upon redemption, unamortized debt issuance costs of \$2.2 million were expensed.

On June 12, 2007, the Company entered into interest rate swap transactions with independent third parties related to the 2014 Notes pursuant to which it pays the third parties a fixed rate and receives a floating rate from the third parties. The interest rate swaps had a total notional amount of \$300.0 million and were designated as cash flow hedges. Under the swap agreements, the Company pays a fixed rate of 5.594% in exchange for a three month LIBOR rate on the swaps. These swap agreements effectively fix the interest rate on the Company's 2014 Notes at 8.344% through 2014.

*8.125% Senior Subordinated Notes.* On February 15, 2006, the Company issued \$600 million of 8.125% Senior Subordinated Notes due 2016 (the "8.125% Notes") with a maturity date of March 1, 2016. As of September 27, 2008, \$15.4 million of unamortized debt issuance costs were included in other non-current assets on the consolidated balance sheet and are being amortized to interest expense over the life of the debt using the effective interest method. The 8.125% Notes are unsecured and subordinated in right of payment to all of the Company's existing and future senior debt.

The Company may redeem the 8.125% Notes, in whole or in part, at any time prior to March 1, 2011, at a redemption price that is equal to the sum of (1) the principal amount of the 8.125% Notes to be redeemed, (2) accrued and unpaid interest on those 8.125% Notes (3) a make-whole premium. The Company may redeem the 8.125% Notes, in whole or in part, beginning on March 1, 2011, at declining redemption prices ranging from 104.063% to 100% of the principal amount of the 8.125%

## SANMINA-SCI CORPORATION

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

#### Note 10. Debt (Continued)

Notes, plus accrued and unpaid interest, with the actual redemption price to be determined based on the date of redemption. At any time prior to March 1, 2009, the Company may redeem up to 35% of the 8.125% Notes with the proceeds of certain equity offerings at a redemption price equal to 108.125% of the principal amount of the 8.125% Notes, plus accrued and unpaid interest, so long as after giving effect to any such redemption, at least 65% of the aggregate principal amount of the 8.125% Notes remains outstanding.

*6.75% Senior Subordinated Notes.* On February 24, 2005, the Company issued \$400 million of its 6.75% Senior Subordinated Notes due 2013 (the "6.75% Notes"), with a maturity date of March 1, 2013. The Company has entered into interest rate swap agreements with four independent swap counterparties to hedge its interest rate exposures related to the 6.75% Notes. The swap agreements, with an aggregate notional amount of \$400 million and expiration dates in 2013, effectively convert the fixed interest rate obligation to a variable rate obligation and are accounted for as fair value hedges under SFAS No. 133, but are exempt from periodic assessment of hedge effectiveness under Paragraph 68 of SFAS No. 133. Under the terms of the swap agreements, the Company pays the independent swap counterparties an interest rate equal to the six-month LIBOR rate plus a spread ranging from 2.214% to 2.250%. In exchange, the Company receives a fixed rate of 6.75%. As of September 27, 2008 and September 30, 2007, the fair value of these swaps was \$2.0 million and \$11.9 million, respectively. As of September 27, 2008, unamortized debt issuance costs were \$9.5 million, which were included in other non-current assets on the consolidated balance sheet and are being amortized to interest expense over the life of the debt using the effective interest method.

The 6.75% Notes are unsecured and subordinated in right of payment to all of the Company's existing and future senior debt. The Company may redeem the 6.75% Notes, in whole or in part, at any time prior to March 1, 2009, at a redemption price that is equal to the sum of (1) the principal amount of the 6.75% Notes to be redeemed, (2) accrued and unpaid interest and (3) a make-whole premium. The Company may redeem the 6.75% Notes, in whole or in part, beginning on March 1, 2009, at declining redemption prices ranging from 103.375% to 100% of the principal amount, plus accrued and unpaid interest, with the actual redemption price to be determined based on the date of redemption.

The 2010 Notes, 2014 Notes, 8.125% Notes and 6.75% Notes include covenants that limit the Company's ability to, among other things: incur additional debt, make investments and other restricted payments, pay dividends on capital stock, or redeem or repurchase capital stock or subordinated obligations; create specified liens; sell assets; create or permit restrictions on the ability of its restricted subsidiaries to pay dividends or make other distributions to the Company; engage in transactions with affiliates; incur layered debt; and consolidate or merge with or into other companies or sell all or substantially all of its assets. The restricted covenants are subject to a number of important exceptions and qualifications.

The indentures for these notes provide for customary events of default, including payment defaults, breaches of covenants, certain payment defaults at final maturity or acceleration of certain other indebtedness, failure to pay certain judgments, certain events of bankruptcy, insolvency and reorganization and certain instances in which a guarantee ceases to be in full force and effect. If any event of default occurs and is continuing, subject to certain exceptions, the trustee or the holders of at least 25% in aggregate principal amount of the then outstanding notes may declare all the notes to be due and payable immediately, together with any accrued and unpaid interest, if any. In the case of an event of default resulting from certain events of bankruptcy, insolvency or reorganization, such amounts

## SANMINA-SCI CORPORATION

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

#### Note 10. Debt (Continued)

with respect to the notes will be due and payable immediately without any declaration or other act on the part of the trustee or the holders of the notes.

Following a change of control, as defined in the indentures to these notes, the Company will be required to make an offer to repurchase all or any portion of the notes at a purchase price of 101% of the principal amount, plus accrued and unpaid interest.

*Senior Credit Facility.* On October 26, 2004, the Company entered into a Credit and Guaranty Agreement (the "Original Credit Agreement") providing for a \$500 million senior secured revolving credit facility with a \$150 million letter of credit sub-limit. The senior secured revolving credit facility provided for a maturity date of October 26, 2007, which was subsequently extended to December 16, 2008.

As of September 27, 2008 and September 30, 2007, there was no loan balance outstanding under the \$500 million Restated Credit Agreement. The Company pays a commitment fee on the unused portion of the credit facility. On November 19, 2008, in connection with entering into the Loan Agreement, as described below, the Company terminated the Restated Credit Agreement.

The Company was in compliance with covenants for the above debt instruments as of September 27, 2008.

*Asset-backed Lending Facility.* On November 19, 2008, the Company entered into a Loan, Guaranty and Security Agreement (the "Loan Agreement"), among the Company, the financial institutions party thereto from time to time as lenders, and Bank of America, N.A., as agent for such lenders.

The Loan Agreement provides for a \$135 million secured asset-based revolving credit facility with an initial \$50 million letter of credit sublimit. The facility may be increased by an additional \$200 million upon obtaining additional commitments from the lenders then party to the Loan Agreement or new lenders. The Loan Agreement expires on the earlier of (i) the date that is 90 days prior to the maturity date of the 2010 Notes or the 6.75% Notes, in each case if such notes are not repaid, redeemed, defeased, refinanced or reserved for under the borrowing base under the Loan Agreement prior to such date or (ii) November 19, 2013 (the "Maturity Date").

Loans may be advanced under the Loan Agreement based on a borrowing base derived from specified percentages of the value of eligible accounts receivable and inventory. If at any time the aggregate principal amount of the loans outstanding plus the face amount of undrawn letters of credit under the Loan Agreement exceed the borrowing base then in effect, the Company must make a payment or post cash collateral (in the case of letters of credit) in an amount sufficient to eliminate such excess.

Loans under the Loan Agreement bear interest, at the Company's option, at a rate equal to LIBOR or a base rate equal to Bank of America, N.A.'s announced prime rate, in each case plus a spread. A commitment fee accrues on any unused portion of the commitments under the Loan Agreement at a rate per annum based on usage. Principal, together with accrued and unpaid interest, is due on the Maturity Date.

The Company's obligations under the Loan Agreement are secured by (1) all U.S. and Canadian accounts receivable (with automatic lien releases occurring at time of sale of each accounts receivable transaction for those customers included in the "U.S. Facility"—See Note 11—Sales of Accounts Receivable); (2) all U.S. and Canadian deposit accounts (except accounts used for collections for

# SANMINA-SCI CORPORATION

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

### Note 10. Debt (Continued)

certain transactions); (3) all U.S. and Canadian inventory and associated obligations and documents; and (4) a 65% pledge of the capital stock of the Company's first-tier foreign subsidiaries.

The Loan Agreement contains customary affirmative covenants, including covenants regarding the payment of taxes and other obligations, maintenance of insurance, reporting requirements and compliance with applicable laws and regulations. Further, the Loan Agreement contains customary negative covenants limiting the ability of the Company under certain circumstances, among other things, to use the facility to make investments, acquisitions and certain restricted payments, and to sell assets. Upon an event of default, the lenders may declare all outstanding principal and accrued but unpaid interest under the Loan Agreement immediately due and payable. Events of default under the Loan Agreement include payment defaults, cross defaults with certain other indebtedness, breaches of covenants or representations and warranties, change in control of the Company and bankruptcy events.

Maturities of long-term debt as of September 27, 2008 were as follows:

<u>Year Ending:</u>	<u>(In thousands)</u>
2009	\$ —
2010	180,000
2011	—
2012	—
2013	400,000
Thereafter	901,985
<b>Total</b>	<b><u>\$ 1,481,985</u></b>

### Note 11. Sales of Accounts Receivable

Certain of the Company's foreign subsidiaries entered into agreements pursuant to which a financial institution provided a committed facility that permitted them to sell specified accounts receivable from customers of the Company's PC Business, which the Company discontinued in 2008. The purchase price for receivables sold under these agreements ranged from 95% to 100% of face amount. The Company paid LIBOR plus a spread for the period from the date the receivable was sold to its collection date. Accounts receivable sales under these agreements were \$831.4 million during 2008. Sold receivables were subject to certain limited recourse provisions. The Company did not experience any credit losses under these recourse provisions.

On June 26, 2008, as a replacement to the foregoing accounts receivable sales program, the Company entered into a two year global revolving trade receivables purchase agreement ("Global Receivables Program") with a financial institution that allows the Company to sell accounts receivable from its EMS customers. The maximum face amount of accounts receivable that may be outstanding at any time under this agreement is \$250 million. Sales and or transfers of accounts receivable under the Global Receivables Program are made on terms and conditions similar to those discussed above. The Global Receivables Program has a foreign component and a U.S. component.

The foreign component is governed by a Revolving Trade Receivables Purchase Agreement ("Foreign Facility") dated June 26, 2008. Sales of receivables under the Foreign Facility were \$28.6 million in 2008, of which \$15.7 million was subject to certain recourse provisions as of September 27, 2008. Discount charges in 2008, as well as the Company's retained interest in accounts receivable as of September 27, 2008 were not material.

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 11. Sales of Accounts Receivable (Continued)**

In accordance with SFAS No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liability* " as amended by SFAS No. 156, *Accounting for Servicing of Financial Assets an Amendment of FASB Statement No. 140* , accounts receivable sold in 2008, 2007 and 2006 were removed from the Company's consolidated balance sheets and reflected as cash provided by operating activities in the consolidated statements of cash flows.

The U.S. component is governed by a Credit and Security Agreement dated November 24, 2008 that requires the Company to make an absolute transfer of accounts receivable as a capital contribution to its wholly-owned special purpose entity (Borrower) to ensure that such transferred receivables are unavailable to the Company's creditors and to ensure the interests of such transferred receivables are fully transferred to the Borrower and its agent. If, pursuant to applicable accounting rules, the Company is required to consolidate the Borrower, accounts receivable transferred under this agreement would remain on the Company's consolidated balance sheet and proceeds received from such transfers would be reflected on the Company's consolidated balance sheet as short-term debt. If the Company is not required to consolidate the Borrower, transferred accounts receivable would be removed from the Company's consolidated balance sheet and proceeds received from such transfers would be reflected as cash provided by operating activities in the consolidated statement of cash flows.

**Note 12. Accrued Liabilities**

Accrued liabilities consisted of the following:

	As of	
	September 27,	September 29,
	2008	2007
	(In thousands)	
Income taxes payable and deferred taxes	\$ 34,305	\$ 47,886
Restructuring	32,824	16,931
Other taxes payable	12,333	29,687
Warranty reserve	18,974	23,094
Other	92,586	86,343
Total	<u>\$ 191,022</u>	<u>\$ 203,941</u>

*Warranty Reserve.* The following tables present warranty reserve activity:

Balance as of September 29,	Additions to		Balance as of September 27,
2007	Accrual	Accrual Utilized	2008
(In thousands)			
<u>\$ 23,094</u>	<u>\$ 20,403</u>	<u>\$(24,523)</u>	<u>\$ 18,974</u>

Balance as of September 30,	Additions to		Balance as of September 29,
2006	Accrual	Accrual Utilized	2007
(In thousands)			
<u>\$ 16,442</u>	<u>\$ 26,323</u>	<u>\$(19,671)</u>	<u>\$ 23,094</u>

# SANMINA-SCI CORPORATION

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

### Note 13. Commitments and Contingencies

**Operating Leases.** The Company leases certain of its facilities and various equipment under non-cancelable operating leases expiring at various dates through 2036. The Company is responsible for utilities, maintenance, insurance and property taxes under the leases. Future minimum lease payments, net of sublease income, under operating leases are as follows:

<u>Year Ending:</u>	<u>(In thousands)</u>
2009	\$ 25,579
2010	20,206
2011	14,938
2012	7,199
2013	3,429
Thereafter	15,256
<b>Total</b>	<b>\$ 86,607</b>

Rent expense, net of sublease income, under operating leases was approximately \$31.0 million, \$37.1 million and \$30.8 million for 2008, 2007 and 2006, respectively.

**Sale-leaseback.** During 2008, the Company entered into a sale-leaseback transaction for certain fixed assets. In connection with the transaction, fixed assets were sold for \$26.5 million and simultaneously leased back under an operating lease for a period of four years. The gain on sale was not significant and is being amortized to operations over the lease term. Future minimum lease payments were \$18.8 million as of September 27, 2008 and are included in the above table.

**Environmental Matters.** Primarily as a result of certain acquisitions, the Company has exposures associated with environmental contamination at certain facilities. These exposures relate to ongoing investigation and remediation activities at a number of sites.

As of September 27, 2008, the Company was in the process of remediating environmental contamination at one of its sites in the United States. The Company expects to incur costs of \$10.7 million for assessment, testing and remediation of this site. Actual costs could differ from the amount estimated upon completion of this process. To date, \$4.8 million of such costs have been incurred. The Company intends to sell this site upon completion of its remediation efforts. Costs incurred in connection with remediation activities have been capitalized to the extent the estimated fair value of the site exceeds its carrying cost. During 2008, the Company recorded an impairment charge of \$1.0 million to write down the carrying value of this site to its estimated fair value.

**Litigation and other contingencies.** The Company is involved in a shareholder derivative action and has received a subpoena from the U.S. Attorney's office in connection with certain historical stock option grants. From time to time, the Company is a party to litigation, claims and other contingencies, including environmental matters and examinations and investigations by governmental agencies, which arise in the ordinary course of business. The Company cannot predict what effect these matters may have on its results of operations, financial condition or cash flows. Refer to "Item 3—Legal Proceedings".

The Company records a contingent liability when it is probable that a loss has been incurred and the amount is reasonably estimable in accordance with SFAS No. 5, "Accounting for Contingencies". As of September 27, 2008, the Company had reserves of \$33.1 million for environmental matters, litigation

## SANMINA-SCI CORPORATION

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

#### Note 13. Commitments and Contingencies (Continued)

and other contingencies, which the Company believes is adequate. Such reserves are included in accrued liabilities or other long-term liabilities on the consolidated balance sheet.

#### Note 14. Employee Benefit Plans

The Company has various defined contribution retirement plans that cover the majority of its employees. These retirement plans permit participants to elect to have contributions made to the retirement plans in the form of salary deferrals. Under these retirement plans, the Company matches a portion of employee contributions. Amounts contributed by the Company were \$8.9 million, \$10.2 million and \$10.5 million during 2008, 2007 and 2006, respectively.

The Company sponsors a deferred compensation plan for non-employee members of its board of directors. The plan allows eligible outside directors to defer payment of all or part of their compensation for serving as directors. Deferrals under this plan were \$0.1 million, \$0.3 million and \$0.1 million for 2008, 2007 and 2006, respectively.

The Company also has a deferred compensation plan for eligible employees. The plan allows eligible employees to defer payment of part of their compensation. Deferrals under this plan were \$1.4 million, \$1.6 million and \$2.1 million for 2008, 2007 and 2006, respectively. These amounts are reflected in other long-term liabilities in the consolidated balance sheets.

Effective 2007, the Company adopted SFAS No. 158, *"Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans—an amendment of FASB Statements No. 87, 88, 106 and 132R"*, which requires that the funded status of defined benefit postretirement plans be recognized on the Company's consolidated balance sheets, and changes in the funded status be reflected in the Company's Statements of Comprehensive Loss. SFAS No. 158 also requires the measurement date of the plan's funded status to be the same as the Company's fiscal year end. This standard eliminates the requirement for additional minimum liability under SFAS No. 87. The adoption of SFAS No. 158 did not have a material impact on the Company's consolidated financial statements.

SCI Systems had defined benefit pension plans covering substantially all employees in the United States and Brockville, Ontario, Canada. These plans generally provided pension benefits that are based on compensation levels and years of service. Annual contributions to the plans were made according to the established laws and regulations of the applicable countries, and were funded annually at amounts that approximated the maximum deductible for income taxes. The merger between Sanmina Corporation and SCI Systems in December 2001 resulted in a plan curtailment as described in SFAS No. 88 and benefits were calculated and frozen as of December 31, 2001. Employees who had not yet vested will continue to be credited with service until vesting occurs, but no additional benefits will accrue.

The Company also provides defined benefit pension plans in certain other countries. The assumptions used for calculating the obligation for non-U.S. plans depend on the local economic environment and regulations.



**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 14. Employee Benefit Plans (Continued)**

Changes in benefit obligations for the plans described above were as follows (in thousands):

<u>Change in Benefit Obligations</u>	<u>As of</u> <u>September 27, 2008</u>		<u>As of</u> <u>September 29, 2007</u>		<u>As of</u> <u>September 30, 2006</u>	
	<u>U.S.</u>	<u>Non-U.S.</u>	<u>U.S.</u>	<u>Non-U.S.</u>	<u>U.S.</u>	<u>Non-U.S.</u>
Beginning benefit obligation	\$33,586	\$27,115	\$36,277	\$26,491	\$42,402	\$26,615
Service cost	—	698	—	868	—	942
Interest cost	1,829	1,584	2,067	1,467	2,063	1,227
Actuarial (gain) loss	(148)	(4,573)	1,955	(4,070)	(1,990)	(3,109)
Benefits paid	(6,293)	(1,438)	(6,713)	(831)	(6,198)	(410)
Settlement / Curtailment	—	202	—	—	—	—
Other*	—	2,179	—	3,190	—	1,226
Ending benefit obligation	<u>\$28,974</u>	<u>\$25,767</u>	<u>\$33,586</u>	<u>\$27,115</u>	<u>\$36,277</u>	<u>\$26,491</u>

\* Primarily related to fluctuations in exchange rates between foreign currencies and the US dollar.

Weighted-average actuarial assumptions used to determine benefit obligations were as follows:

	<u>U.S. Pensions</u>		<u>Non-U.S. Pensions</u>	
	<u>As of</u>		<u>As of</u>	
	<u>September 27,</u>	<u>September 29,</u>	<u>September 27,</u>	<u>September 29,</u>
	<u>2008</u>	<u>2007</u>	<u>2008</u>	<u>2007</u>
Discount rate	6.25%	6.0%	5.4%	5.3%
Rate of compensation increases	—	—	1.4%	1.9%

The Company evaluates these assumptions on a regular basis taking into consideration current market conditions and historical market data. The discount rate is used to measure expected future cash flows at present value on the measurement date. This rate represents the market rate for high-quality fixed income investments. A lower discount rate would increase the present value of the benefit obligation. Other assumptions include demographic factors such as retirement, mortality, and turnover.

Changes in plan assets and funded status for the plans described above were as follows (in thousands):

<u>Change in Plan Assets</u>	<u>As of</u> <u>September 27, 2008</u>		<u>As of</u> <u>September 29, 2007</u>		<u>As of</u> <u>September 30, 2006</u>	
	<u>U.S.</u>	<u>Non-U.S.</u>	<u>U.S.</u>	<u>Non-U.S.</u>	<u>U.S.</u>	<u>Non-U.S.</u>
Beginning fair value	\$27,442	\$ —	\$26,820	\$ —	\$22,825	\$ —
Actual return	(1,575)	—	2,265	—	1,656	—
Employer contributions	2,750	1,438	5,070	831	8,537	410
Benefits paid	(6,293)	(1,438)	(6,713)	(831)	(6,198)	(410)
Ending fair value	<u>\$22,324</u>	<u>\$ —</u>	<u>\$27,442</u>	<u>\$ —</u>	<u>\$26,820</u>	<u>\$ —</u>
<b>Under Funded Status</b>	<u><u>\$ (6,650)</u></u>	<u><u>\$(25,767)</u></u>	<u><u>\$ (6,144)</u></u>	<u><u>\$(27,115)</u></u>	<u><u>\$ (9,457)</u></u>	<u><u>\$(26,491)</u></u>

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 14. Employee Benefit Plans (Continued)**

Weighted-average asset allocations by asset category for the U.S. plan were as follows:

	As of		
	September 27,	September 29,	
	Target	2008	2007
Equity securities	50%	49%	54%
Debt securities	50%	51%	46%
Total	100%	100%	100%

During 2008, the investment allocation consisted primarily of investments in equity instruments and bonds. In general, the investment strategy is designed to ensure that pension assets are available to pay benefits as they come due and minimize market risk. During 2008, the investment allocation consisted primarily of investments in the State Street Passive Bond Market Index and in the S&P 500 Index for the U.S. plan. The non-U.S. plans are managed consistent with regulations or market practice of the country in which the assets are invested.

The funded status of the plans, reconciled to the amount reported on the consolidated balance sheets, is as follows (in thousands):

	As of September 27, 2008		As of September 29, 2007		As of September 30, 2006	
	U.S.	Non-U.S.	U.S.	Non-U.S.	U.S.	Non-U.S.
<b>Under Funded Status at Year End</b>	<b>\$(6,650)</b>	<b>\$(25,767)</b>	<b>\$(6,144)</b>	<b>\$(27,115)</b>	<b>\$(9,457)</b>	<b>\$(26,491)</b>
Unrecognized transition obligation	—	2,185	—	275	—	259
Unrecognized net actuarial (gain) loss	8,765	(5,768)	7,474	(2,258)	7,794	778
<b>Net amount recognized in Consolidated Balance Sheet</b>	<b>\$ 2,115</b>	<b>\$(29,350)</b>	<b>\$ 1,330</b>	<b>\$(29,098)</b>	<b>\$(1,663)</b>	<b>\$(25,454)</b>
<b>Components of Net Amount Recognized in Consolidated Balance Sheet</b>						
Accrued benefit liability (current)	\$ —	\$ (800)	\$ —	\$ (656)	\$ —	\$ —
Liability for benefits (non-current)	(6,650)	(24,967)	(6,144)	(26,459)	(9,457)	(26,491)
Accumulated other comprehensive income	8,765	(3,583)	7,474	(1,983)	7,794	1,037
<b>Net asset (liability) recognized in Consolidated Balance Sheet</b>	<b>\$ 2,115</b>	<b>\$(29,350)</b>	<b>\$ 1,330</b>	<b>\$(29,098)</b>	<b>\$(1,663)</b>	<b>\$(25,454)</b>

Estimated amortization from accumulated other comprehensive income into net periodic benefit cost in 2009 is as follows (in thousands):

	U.S.	Non-U.S.
Amortization of actuarial (gain) loss	\$724	\$ (255)
Amortization of transition obligation	—	507
Total	<u>\$724</u>	<u>\$ 252</u>

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 14. Employee Benefit Plans (Continued)**

The accumulated benefit obligation for all defined benefit pension plans was \$52.8 million and \$59.4 million at September 27, 2008 and September 29, 2007, respectively.

The following table provides information for pension plans with an accumulated benefit obligation in excess of plan assets (in thousands):

	As of September 27, 2008		As of September 29, 2007	
	U.S.	Non-U.S.	U.S.	Non-U.S.
Projected benefit obligation	\$28,974	\$25,767	\$33,586	\$27,115
Accumulated benefit obligation	\$28,974	\$23,806	\$33,586	\$25,850
Fair value of plan assets	\$22,324	\$ —	\$27,442	\$ —

Components of net periodic benefit costs were as follows (in thousands):

	As of September 27, 2008		As of September 29, 2007		As of September 30, 2006	
	U.S.	Non-U.S.	U.S.	Non-U.S.	U.S.	Non-U.S.
Service cost	\$ —	\$ 698	\$ —	\$ 868	\$ —	\$ 942
Interest cost	1,829	1,584	2,067	1,467	2,063	1,227
Return on plan asset	(2,079)	—	(2,029)	—	(1,842)	—
Settlement charge	1,719	90	1,391	—	1,198	—
Amortization of:						
—Actuarial (gain) loss	496	(131)	647	(4)	717	153
—Transition obligation	—	507	—	36	—	34
<b>Net periodic benefit cost</b>	<b>\$ 1,965</b>	<b>\$ 2,748</b>	<b>\$ 2,076</b>	<b>\$ 2,367</b>	<b>\$ 2,136</b>	<b>\$ 2,356</b>

Weighted-average assumptions used to determine benefit costs were as follows:

	U.S. Pensions		Non-U.S. Pensions	
	As of		As of	
	September 27, 2008	September 29, 2007	September 27, 2008	September 29, 2007
Discount rate	6.0%	6.0%	5.3%	5.0%
Expected return on plan assets	8.5%	8.5%	—	—
Rate of compensation increases	—	—	1.9%	2.2%

The long-term rate of return on assets for the U.S. pension plans used in these calculations is assumed to be 8.5%. Several factors, including historical rates of returns, expectations of future returns and projected rates of return from investment managers are considered in developing the asset return assumptions for all plans.

# SANMINA-SCI CORPORATION

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

### Note 14. Employee Benefit Plans (Continued)

Estimated future benefit payments are as follows:

	<u>Pension Benefits</u> (In thousands)
2009	\$ 8,113
2010	\$ 3,753
2011	\$ 3,546
2012	\$ 3,401
2013	\$ 3,301
Years 2014 through 2018	\$ 17,853

### Note 15. Restructuring Costs

Costs associated with restructuring activities, other than those activities related to business combinations, are accounted for in accordance with SFAS No. 146, *"Accounting for Costs Associated with Exit or Disposal Activities"*, or SFAS No. 112, *"Employers' Accounting for Postemployment Benefits"*, as applicable. Pursuant to SFAS No. 112, restructuring costs related to employee severance are recorded when probable and estimable based on the Company's policy with respect to severance payments. For all other restructuring costs, a liability is recognized in accordance with SFAS No. 146 only when incurred. Costs associated with restructuring activities related to business combinations are accounted for in accordance with EITF 95-3, *"Recognition of Liabilities in Connection with a Purchase Business Combination"*.

During 2007, the Company incurred restructuring costs associated with various restructuring programs. Due to the immateriality of the remaining accrual balance related to programs implemented in prior years, all programs have been combined for disclosure purposes.

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 15. Restructuring Costs (Continued)**

Below is a summary of restructuring costs associated with facility closures and other consolidation efforts:

	Employee Termination/ Severance and Related Benefits	Leases and Facilities Shutdown and Consolidation Costs Cash	Impairment of Fixed Assets or Redundant Fixed Assets Non-Cash	Total
	Cash			
	(In thousands)			
Balance at October 1, 2005	\$ 15,852	\$ 14,466	\$ —	\$ 30,318
Charges to operations	77,582	10,755	2,883	91,220
Charges utilized	(66,556)	(14,957)	(2,883)	(84,396)
Reversal of accrual	(5,529)	(460)	—	(5,989)
Balance at September 30, 2006	21,349	9,804	—	31,153
Charges (recovery) to operations	35,169	11,195	(831)	45,533
Charges recovered (utilized)	(47,873)	(12,132)	831	(59,174)
Reversal of accrual	(2,505)	(441)	—	(2,946)
Balance at September 29, 2007	6,140	8,426	—	14,566
Charges to operations	64,126	16,519	2,456	83,101
Charges utilized	(45,248)	(19,765)	(2,456)	(67,469)
Reversal of accrual	(833)	(892)	—	(1,725)
Balance at September 27, 2008	<u>\$ 24,185</u>	<u>\$ 4,288</u>	<u>\$ —</u>	<u>\$ 28,473</u>

During 2008, the Company closed or consolidated four facilities and recorded restructuring charges for employee termination benefits for approximately 2,900 employees.

During 2007, the Company closed or consolidated eight facilities and terminated approximately 6,700 employees. In 2006, the Company initiated the closure or consolidation of three facilities and recorded restructuring charges related to employee termination benefits for approximately 12,000 employees.

Accrued restructuring costs as of September 27, 2008 were \$34.1 million, of which \$28.5 million relates to restructuring actions related to the Company's continuing operations and \$5.6 million relates to restructuring actions related to the Company's discontinued operations. Of these amounts, \$32.8 million was included in accrued liabilities and \$1.3 million was included in other long-term liabilities on the consolidated balance sheet. In connection with restructuring actions the Company has already implemented under its restructuring plan, the Company expects to pay remaining facilities related restructuring liabilities of \$4.3 million through 2010, and the majority of severance costs of \$29.8 million through 2009.

The recognition of restructuring charges requires the Company to make judgments and estimates regarding the nature, timing, and amount of costs associated with the planned exit activities, including estimating sublease income and the fair values, less selling costs, of property, plant and equipment to be disposed of. The Company's estimates of future liabilities may change, requiring it to record additional restructuring charges or reduce the amount of liabilities already recorded.

## SANMINA-SCI CORPORATION

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

#### Note 16. Stockholders' Equity

*Stock Option Plans.* The 1990 Incentive Stock Plan (the "Plan") provides for the grant of incentive stock options, non-statutory stock options, and stock purchase rights to employees and other qualified individuals to purchase shares of the Company's common stock at amounts not less than 100% of the fair market value of the shares on the date of the grant. The Plan has been terminated and the Company is no longer granting options under this plan.

On January 29, 1999, stockholders approved the adoption of Sanmina-SCI's 1999 Stock Plan (the "1999 Plan"). The 1999 Plan provides for the grant of incentive stock options, non-statutory stock options, and stock purchase rights to employees and other qualified individuals to purchase shares of the Company's common stock generally at amounts not less than 100% of the fair market value of the shares on the date of the grant.

The 1995 Director Option Plan (the "Director Plan") provides for the automatic grant of stock options to outside directors of the Company at amounts not less than 100% of the fair market value of the shares on the date of grant. The Director Plan has been terminated and the Company is no longer granting options under this plan.

The 1996 Supplemental Stock Option Plan (the "Supplemental Plan") permits only the grant of non-statutory stock options and provides that options must have an exercise price at least equal to the fair market value of the Company's common stock on the date of the grant. Options under the Supplemental Plan may be granted to employees and consultants, but not to executive officers and directors.

The Sanmina-SCI Corporation Stock Option Plan 2000 (the "2000 Plan") provides for the grant of non-statutory stock options to employees in Sweden and Finland. The exercise price of options granted under the 2000 Plan can be less than fair market value per share, but shall not be less than the market value of a share on the day before the date on which invitations to apply for options were issued.

The French Addendum to the 1999 Stock Plan (the "French Addendum") provides for the grant of non-statutory options to employees of in France. For French tax purposes, the French Addendum is a qualifying plan which will avoid social security charges to the employee provided the shares acquired are not sold within four years of the date on which the option is granted and the option price of the newly issued shares cannot be lower than 95% of the average stock exchange price during the 20 days preceding the grant. Options issued pursuant to this plan are issued at 100% of the market price on the date of grant.

Options vest as determined by the Compensation Committee of the Board of Directors and in no event may an option have a term exceeding ten years from the date of the grant. Stock option activity under the Company's option plans during 2008, 2007 and 2006 is disclosed in note 9—Stock-Based Compensation.

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 16. Stockholders' Equity (Continued)**

The following table summarizes information regarding stock options outstanding at September 27, 2008:

Range of Weighted Exercise Prices	Options Outstanding		Weighted Average Exercise Price	Option Vested and Exercisable	
	Number Outstanding	Weighted Average Remaining Contractual Life		Number Outstanding	Weighted Average Exercise Price
\$1.15—\$1.64	5,414,269	9.47	\$ 1.43	54,932	\$ 1.63
\$1.65—\$1.98	4,510,875	9.13	\$ 1.98	1,192	\$ 1.80
\$1.99—\$2.12	566,145	7.98	\$ 2.07	207,770	\$ 2.08
\$2.13—\$3.52	16,076,416	8.66	\$ 3.25	5,385,586	\$ 3.26
\$3.53—\$3.72	3,856,316	8.45	\$ 3.72	1,167,787	\$ 3.72
\$3.73—\$4.07	3,962,898	5.38	\$ 4.02	3,170,952	\$ 4.03
\$4.08—\$8.85	5,726,823	4.72	\$ 7.02	5,482,652	\$ 7.14
\$8.86—\$18.99	5,111,487	3.65	\$ 12.79	5,111,487	\$ 12.79
\$19.00—\$46.07	1,034,013	2.38	\$ 46.07	1,034,013	\$ 46.07
\$1.15—\$46.07	<u>46,259,242</u>	<u>7.31</u>	<u>\$ 5.14</u>	<u>21,616,371</u>	<u>\$ 7.93</u>

The number of options exercisable and weighted average exercise prices as of September 29, 2007 and September 30, 2006 were 18,438,096 shares at \$9.72 per share and 43,818,552 shares at \$9.16 per share, respectively.

*Employee Stock Purchase Plan.* In 2003, the Board of Directors and stockholders of the Company approved the 2003 Employee Stock Purchase Plan (the "2003 ESPP"). The total number of shares of common stock available to be issued under the 2003 ESPP is 9,000,000 shares. Under the 2003 ESPP, employees may purchase, on a periodic basis, a limited number of shares of common stock through payroll deductions over a six-month period. The per share purchase price is 85% of the fair market value of the stock at the beginning or end of the offering period, whichever is lower. The 2003 ESPP was suspended at the beginning of 2007. As of September 27, 2008, 8,866,769 shares had been issued under the 2003 ESPP.

*Restricted Stock Awards.* The Company grants awards of restricted stock to executive officers, directors and certain management employees. These awards vest over periods ranging from one to four years.

*Restricted Stock Units.* In 2006, the Company began issuing restricted stock units to executive officers, directors and certain management employees. These units vest over periods ranging from one to four years. The units are automatically exchanged for shares at the vesting date.

*Authorized Shares.* As of September 27, 2008, the Company had reserved the following number of shares of authorized but unissued common stock:

Stock option plans, including restricted stock units and awards	57,884,875
Employee stock purchase plan	6,133,231
<b>Total</b>	<u><b>64,018,106</b></u>

A total of 6,033,143 shares of common stock were available for grant as of September 27, 2008.

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 17. Income Taxes**

The provision for income taxes has been determined in accordance with SFAS No. 109, "Accounting for Income Taxes" and related interpretations. SFAS No. 109 requires that the amount of income tax expense or benefit be allocated among continuing operations, discontinued operations, other comprehensive income, and items charged or credited directly to stockholders' equity. The amount allocated to continuing operations is the tax effect of the pretax income or loss from continuing operations that occurred during the year, plus or minus income tax effects of changes in circumstances that cause a change in judgment about the realization of deferred tax assets in future years and changes in tax laws or rates. The portion of income tax expense or benefit that remains after allocation to continuing operations is then allocated to discontinued operations, other comprehensive income and items charged or credited directly to stockholders' equity.

The domestic and foreign components of loss from continuing operations before income taxes and cumulative effect of accounting changes are as follows:

	<b>Year Ended</b>		
	<u>September 27, 2008</u>	<u>September 29, 2007</u>	<u>September 30, 2006</u>
	(In thousands)		
Domestic	\$ (401,613)	\$ (1,256,956)	\$ (268,122)
Foreign	(88,718)	114,929	93,189
<b>Total</b>	<u>\$ (490,331)</u>	<u>\$ (1,142,027)</u>	<u>\$ (174,933)</u>

The provision for (benefit from) income taxes consists of the following:

	<b>Year Ended</b>		
	<u>September 27, 2008</u>	<u>September 29, 2007</u>	<u>September 30, 2006</u>
	(In thousands)		
<b>Federal</b>			
Current	\$ (2,818)	\$ (17,250)	\$ (39,094)
Deferred	—	—	—
	<u>(2,818)</u>	<u>(17,250)</u>	<u>(39,094)</u>
<b>State</b>			
Current	(117)	(5,981)	(507)
Deferred	—	—	—
	<u>(117)</u>	<u>(5,981)</u>	<u>(507)</u>
<b>Foreign</b>			
Current	27,415	26,330	21,014
Deferred	(3,475)	(3,633)	7,949
	<u>23,940</u>	<u>22,697</u>	<u>28,963</u>
<b>Total provision for (benefit from) income taxes</b>	<u>\$ 21,005</u>	<u>\$ (534)</u>	<u>\$ (10,638)</u>



**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 17. Income Taxes (Continued)**

The tax effects of temporary differences that give rise to significant portions of deferred tax assets and liabilities are as follows:

	As of	
	September 27, 2008	September 29, 2007
	(In thousands)	
Deferred tax assets:		
Reserves and accruals not currently deductible	\$ 89,839	\$ 113,314
U.S. net operating loss carryforwards	398,506	371,529
Foreign net operating loss carryforwards	245,635	217,793
Acquisition related intangibles	149,941	136,210
Depreciation differences and property, plant and equipment impairment reserves	60,715	51,716
Tax credit carryforwards	8,370	8,662
Unrealized losses on derivative financial instruments	11,073	4,491
Stock compensation expense	3,611	6,962
Other	6,700	7,380
Valuation allowance	(904,581)	(837,487)
Total deferred tax assets	69,809	80,570
Deferred tax liabilities on foreign earnings	(52,264)	(66,499)
Net deferred tax assets	<u>\$ 17,545</u>	<u>\$ 14,071</u>
Recorded as:		
Current deferred tax assets	\$ 16,400	\$ 17,464
Current deferred tax liabilities	—	(2,347)
Non-current deferred tax assets	8,270	6,655
Non-current deferred tax liabilities	(7,125)	(7,701)
Net deferred tax assets	<u>\$ 17,545</u>	<u>\$ 14,071</u>

The Company has a valuation allowance against its deferred tax assets which primarily relate to U.S. operations. The underlying net operating loss carryforwards are still available to the Company to offset future taxable income in the U.S., subject to applicable tax laws and regulations. Due to continuing losses during 2008 and 2007 in the U.S. and certain other countries, the Company has determined that a valuation allowance is required with respect to deferred tax assets as of September 27, 2008 and September 29, 2007. Although realization is not assured, the Company believes it is more likely than not that the remaining deferred tax assets will be realized. The amount of net deferred tax assets, however, could be reduced or increased in the future if actual facts, including estimates of future taxable income, differ from current estimates. The Company's valuation allowance increased \$67.1 million and \$124.4 million during 2008 and 2007, respectively.

The Company has no present intention of remitting undistributed earnings of foreign subsidiaries aggregating \$752.5 million as of September 27, 2008, and, accordingly, no deferred tax liability has been established relative to these earnings. Determination of the amount of unrecognized deferred tax liability on these undistributed earnings is not practicable.

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 17. Income Taxes (Continued)**

The Company has cumulative net operating loss carryforwards for federal, state and foreign tax purposes of \$1,029.0 million, \$785.9 million and \$824.3 million, respectively, as of September 27, 2008. The net operating loss carryforwards began expiring in 2007. The Tax Reform Act of 1986 and similar state provisions impose restrictions on the utilization of net operating loss and tax credit carryforwards in the event of an "ownership change" as defined in the Internal Revenue Code. As of September 27, 2008, the Company had \$20.7 million of federal net operating losses subject to an annual limitation and may utilize approximately \$1.7 million of these net operating losses each year.

The Company has been granted tax holidays for certain of its subsidiaries in Singapore, Malaysia, China and India. The tax benefit arising from these tax holidays was \$5.5 million for 2008 (\$0.01 per diluted shares), \$6.4 million for 2007 (\$0.01 per diluted shares), and \$8.9 million for 2006 (\$0.02 per diluted shares). The tax holiday in Malaysia is scheduled to expire in June 2009, excluding potential renewal. The tax holidays in the other countries expire through 2012, excluding potential renewals, and are subject to certain conditions with which the Company expects to comply.

Following is a reconciliation of the statutory federal tax rate to the effective tax rate resulting from the computation of the provision for (benefit from) income taxes:

	As of		
	September 27, 2008	September 29, 2007	September 30, 2006
Federal tax at statutory rate	(35.00)%	(35.00)%	(35.00)%
Non-deductible goodwill impairment	18.65	28.84	0.76
Change in valuation allowance	(0.39)	7.28	21.54
Dividends and foreign income inclusion	8.32	1.11	26.69
Audit settlement and related closing of statutes of limitation	—	0.07	(20.37)
State income taxes, net of federal benefit	0.02	(0.44)	(2.40)
Foreign income at other than U.S. rates	11.08	(1.82)	1.18
Permanent items	1.60	0.35	—
Other	—	(0.44)	1.53
Provision for (benefit from) income taxes	4.28%	(0.05)%	(6.07)%

During 2006, the Company received notification by the Congressional Joint Committee on Taxation of approval of its settlement with the U.S. Internal Revenue Service. The total adjustment to previously accrued income taxes as a result of the settlement and related closing of statutes of limitations was \$105.6 million, of which \$39.0 million was recorded as an income tax benefit and \$66.6 million was recorded as a reduction of goodwill for pre-merger tax items.

Certain controlled foreign corporations (CFCs) of the U.S. group had significant intercompany payable and receivable balances with various U.S. legal entities that were unsettled during 2008 and 2006. There were no material unsettled intercompany payable and receivable balances in 2007. Under U.S. tax rules, the gross intercompany payable balance of a U.S. legal entity owed to a CFC constitutes an investment in U.S. property under Section 956 of the Internal Revenue Code (Section 956 property), which is treated as a deemed dividend to the U.S. from the CFC and is taxable in the U.S. to the extent of the higher of the CFC's earnings or its Section 956 property. The inclusion of deemed

# SANMINA-SCI CORPORATION

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

### Note 17. Income Taxes (Continued)

dividends in the Company's U.S. taxable income increased the Company's effective tax rate by 7.82%, 0.61% and 18.46% for 2008, 2007 and 2006, respectively.

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

	(in thousands)
Balance at September 30, 2007	\$ 17,040
Increase related to prior year tax positions	889
Decrease related to prior year tax positions	(498)
Increase related to current year tax positions	4,271
Decrease related to lapse of statute of limitations	(532)
Balance at September 27, 2008	<u>\$ 21,170</u>

The total balance of unrecognized tax benefits at September 27, 2008, if recognized, would affect the effective rate on income.

As of the date of adoption of FIN 48 in 2008, the Company had accrued \$2.9 million for the payment of interest and penalties relating to unrecognized tax benefits. The Company accrued an additional \$1.8 million of interest and penalties expense related to unrecognized tax benefits during 2008. The Company recognizes interest and penalties, if incurred, related to unrecognized tax benefits as a component of income tax expense. This policy did not change as a result of the adoption of FIN 48.

The Company conducts business globally and, as a result, files income tax returns in the United States federal jurisdiction and various state and foreign jurisdictions, including China, Mexico, Singapore, Thailand, Israel, Ireland and Malaysia. In the normal course of business, the Company is subject to examination by taxing authorities throughout the world. It is possible that the amount of the liability for unrecognized tax benefits may change within the next 12 months. In certain foreign jurisdictions, the Company has reached tentative settlement agreements with foreign tax authorities with respect to issues for which FIN 48 reserves have been previously established. Based on these tentative agreements, the Company expects the actual tax to be paid to these foreign jurisdictions will be less than what was previously reserved under FIN 48. Thus, the Company anticipates within the next twelve months, possibly as early as the first quarter of 2009, the Company will release unrecognized tax benefits in the amount of approximately \$5.0 million to \$6.0 million.

In general, the Company is no longer subject to United States federal or state income tax examinations for years before 2003, except to the extent that tax attributes in these years were carried forward to years remaining open for audit, and to examinations for years prior to 2001 in its major foreign jurisdictions.

### Note 18. Business Segment, Geographic and Customer Information

SFAS No. 131, *"Disclosure about Segments of an Enterprise and Related Information"*, establishes standards for reporting information about operating segments, products and services, geographic areas of operations and major customers. Operating segments are defined as components of an enterprise for which separate financial information is available that is evaluated regularly by the chief operating decision maker or decision making group in deciding how to allocate resources and in assessing

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 18. Business Segment, Geographic and Customer Information (Continued)**

performance. As a result of the sale of its PC Business, the Company has only one reportable segment. The PC Business sold by the Company included certain logistics and other services which were not part of the PC reportable segment in prior years.

Information by geographic segment was as follows:

	Year Ended		
	<u>September 27, 2008</u>	<u>September 29, 2007</u>	<u>September 30, 2006</u>
	(In thousands)		
Net sales			
Domestic	\$ 2,180,069	\$ 2,435,840	\$ 2,610,104
International	5,022,334	4,701,953	5,035,014
Total	<u>\$ 7,202,403</u>	<u>\$ 7,137,793</u>	<u>\$ 7,645,118</u>
Operating income (loss)			
Domestic	\$ (444,371)	\$ (1,060,141)	\$ (52,019)
International	60,211	37,080	80,556
Total	<u>\$ (384,160)</u>	<u>\$ (1,023,061)</u>	<u>\$ 28,537</u>
Depreciation and amortization:			
Domestic	\$ 35,179	\$ 42,096	\$ 49,015
International	61,641	75,098	89,582
Total	<u>\$ 96,820</u>	<u>\$ 117,194</u>	<u>\$ 138,597</u>
Capital expenditures:			
Domestic	\$ 26,820	\$ 27,968	\$ 31,410
International	94,658	60,390	107,785
Total	<u>\$ 121,478</u>	<u>\$ 88,358</u>	<u>\$ 139,195</u>

	As of	
	<u>September 27, 2008</u>	<u>September 29, 2007</u>
	(In thousands)	
Long-lived assets (excludes goodwill, intangibles and deferred tax assets):		
Domestic	\$ 214,165	\$ 219,180
International	428,906	426,978
Total	<u>\$ 643,071</u>	<u>\$ 646,158</u>

Sales are attributable to the country in which the product is manufactured. Sales generated from operations in Mexico was \$1.3 billion, \$1.2 billion and \$1.3 billion for 2008, 2007 and 2006, respectively. Sales generated from operations in China was approximately \$1.2 billion, \$0.9 billion and \$0.8 billion for 2008, 2007 and 2006, respectively. No other foreign country's sales exceeded 10% of the Company's total net sales. Long-lived assets related to the Company's operations in Mexico represented 18.6% and 20.3% of consolidated long-lived assets as of September 27, 2008 and September 29, 2007, respectively.

# SANMINA-SCI CORPORATION

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

### Note 18. Business Segment, Geographic and Customer Information (Continued)

Long-lived assets related to the Company's operations in China represented 12.6% and 12.3% of consolidated long-lived assets as of September 27, 2008 and September 29, 2007, respectively. No other foreign country's assets represented more than 10% of consolidated long-lived assets as of September 27, 2008 or September 29, 2007.

A small number of customers generate a significant portion of the Company's net sales. Sales to the Company's ten largest customers represented 48.2%, 48.4% and 49.7% for 2008, 2007 and 2006, respectively. For 2008 and 2006, no customer represented 10% or more of net sales. For 2007, one customer represented 10.4% of net sales.

### Note 19. Other Income (Expense), Net

Other income (expense), net was \$3.6 million, \$23.7 million and \$(16.5) million in 2008, 2007 and 2006, respectively. The following table summarizes the major components of other income (expense), net (in millions):

	Year Ended		
	September 27, 2008	September 29, 2007	September 30, 2006
Foreign exchange gains/(losses)	\$ 3.5	\$ 2.0	\$ (3.9)
Interest rate swap losses	—	—	(9.0)
Gain from fixed asset disposals	0.3	19.0	0.6
Gain (loss) from investments	(0.5)	2.1	(2.8)
Other, net	0.3	0.6	(1.4)
Total	<u>\$ 3.6</u>	<u>\$ 23.7</u>	<u>\$ (16.5)</u>

The decrease in other income (expense), net from \$23.7 million in 2007 to \$3.6 million in 2008 was primarily attributable to more asset sales in 2007, whereby \$16.5 million in gains were realized from the sale of previously restructured manufacturing facilities and equipment and a \$2.5 million gain was realized from the sale of one of the Company's manufacturing operations.

The increase in other income (expense), net from \$(16.5) million in 2006 to \$23.7 million in 2007 was primarily attributable to increased asset sales in 2007 as discussed above. Additionally, in 2006, the Company terminated its interest rate swap upon redemption of its 10.375% Notes.

### Note 20. Discontinued Operations

The Company's PC Business serviced three customers, one of whom transitioned its business 2008 to a new third-party contract manufacturing provider as a result of the Company's decision to exit the PC Business. The remaining portion of the Company's PC Business was sold in two separate transactions, as described below.

#### *Foxteq Transaction*

On February 17, 2008, the Company entered into an Asset Purchase and Sale Agreement ("Purchase Agreement") with Foxteq Holdings, Inc. ("Foxteq"), pursuant to which Foxteq agreed to purchase certain assets of the Company's PC Business located in Hungary, Mexico and the United

**SANMINA-SCI CORPORATION**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**Note 20. Discontinued Operations (Continued)**

States for total consideration equal to the net book value of the assets being sold plus a specified premium. In addition, Foxteq agreed to pay the Company a contingent payment based on certain sales generated during the 12 months following the closing date of the transaction. The Foxteq transaction was completed on July 7, 2008.

The Purchase Agreement contains customary representations, warranties and covenants of each party, and indemnification provisions whereby each party agreed to indemnify the other, subject to certain limitations, for breaches of representations and warranties, breaches of covenants and other matters. In addition, subject to certain conditions, the Purchase Agreement provides that the Company will reimburse Foxteq for certain severance obligations relating to employees terminated by Foxteq within three months following the closing of the transaction or if Foxteq terminates certain other employees within twelve months following the closing of the transaction. The Company will accrue for reimbursement of severance when payment is considered probable and estimable. The Company does not expect to incur material liabilities pursuant to these provisions.

***Lenovo Transaction***

On April 25, 2008, the Company entered into an Asset Purchase Agreement ("Purchase Agreement") with Lenovo (Singapore) Pte. Ltd. and Lenovo Centro Tecnológico, SdeRL de C.V. ("Lenovo"), pursuant to which Lenovo agreed to purchase certain assets and assume certain liabilities related to the Company's PC Business located in Monterrey, Mexico. The Lenovo transaction was completed on June 2, 2008.

The Purchase Agreement contains customary representations, warranties, and indemnification provisions whereby each party agreed to indemnify the other for breaches of representations and warranties, breaches of covenants and other matters.

***Combined Transactions***

The Company received aggregate proceeds of \$89.1 million and recorded a loss of \$6.9 million, net of a write-off of the goodwill associated with the PC segment, with respect to both of these transactions. Additionally, the Company or its assignor agreed to provide certain transitional engineering, information technology and accounting services to the buyers for a period of approximately twelve months after the closing of the transactions. The Company does not expect consideration for such services to be material.

Financial results of the PC Business reported as discontinued operations were as follows:

	Year Ended		
	September 27, 2008	September 29, 2007	September 30, 2006
	(In thousands)		
Revenue	\$ 1,802,452	\$ 3,246,461	\$ 3,310,303
Income before taxes	\$ 32,418	\$ 21,124	\$ 24,780
Provision for income taxes	\$ 7,431	\$ 14,288	\$ 4,872
Net income	\$ 24,987	\$ 6,836	\$ 19,908

## SANMINA-SCI CORPORATION

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

#### Note 21. Subsequent Event

In July 2008, the Board of Directors approved an amendment to the Company's certificate of incorporation that would permit the Company to effect a reverse split of its outstanding and authorized common stock within a range of one-for-three to one-for-ten, with the final ratio to be determined by the Board of Directors following stockholder approval. The stockholders approved this amendment at a special meeting of stockholders held on September 29, 2008. The Board has not yet determined whether to effect the reverse stock split or the ratio within the approved range. As of September 27, 2008, the Company had approximately 531.0 million shares of common stock outstanding.

Should the Board implement the reverse stock split, the par value per share of the common stock will remain unchanged at \$0.01 per share after the reverse stock split. As a result, on the effective date of the reverse split, the stated capital on the Company's consolidated balance sheet attributable to common stock will be reduced and the additional paid-in capital account will be increased by the amount by which the stated capital is reduced. Per share net income or loss will be increased because there will be fewer shares of the Company's common stock outstanding. The Company does not anticipate that any other accounting consequences, including changes to the amount of stock-based compensation expense to be recognized in any period, will arise as a result of the reverse stock split. Additionally, employee and director share and option grants will be adjusted proportionately as will the strike prices on all stock option grants.

The Company announced on October 27, 2008 that its Board of Directors had approved a stock repurchase program covering up to 10% of its shares based on the closing stock price on October 29, 2008. Purchases under the program shall be made at prevailing market prices or in negotiated transactions off the market. The program shall continue through December 2009, unless otherwise determined by the Board of Directors.

## FINANCIAL STATEMENT SCHEDULE

The financial statement Schedule II—VALUATION AND QUALIFYING ACCOUNTS is filed as part of this Form 10-K.

### SANMINA-SCI CORPORATION

#### SCHEDULE II—VALUATION AND QUALIFYING ACCOUNTS

	<u>Balance at Beginning of Period</u>	<u>Charged (Credited) to Operations</u>	<u>Charges Utilized</u>	<u>Balance at End of Period</u>
	(In thousands)			
Allowances for Doubtful Accounts, Product Returns and Other				
Net Sales adjustments				
Fiscal year ended September 30, 2006	\$ 26,683	\$ (5,589)	\$ (915)	\$ 20,179
Fiscal year ended September 29, 2007	\$ 20,179	\$ 3,186	\$ (6,636)	\$ 16,729
Fiscal year ended September 27, 2008	\$ 16,729	\$ (1,073)	\$ (722)	\$ 14,934



## SIGNATURES

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

SANMINA-SCI CORPORATION  
(Registrant)

By: /s/ JURE SOLA

Jure Sola  
*Chairman and Chief Executive Officer*

Date: November 24, 2008

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

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ JURE SOLA</u> Jure Sola	Chief Executive Officer and Director (Principal Executive Officer)	November 24, 2008
<u>/s/ DAVID L. WHITE</u> David L. White	Chief Financial Officer (Principal Financial Officer)	November 24, 2008
<u>/s/ TODD SCHULL</u> Todd Schull	Senior Vice-President and Corporate Controller (Principal Accounting Officer)	November 24, 2008
<u>/s/ NEIL BONKE</u> Neil Bonke	Director	November 24, 2008
<u>/s/ JOSEPH BRONSON</u> Joseph Bronson	Director	November 24, 2008
<u>/s/ ALAIN COUDER</u> Alain Couder	Director	November 24, 2008
<u>/s/ JOHN P. GOLDSBERRY</u> John P. Goldsberry	Director	November 24, 2008

118

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<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ JOSEPH LICATA</u> Joseph Licata	Director	November 24, 2008
<u>/s/ MARIO M. ROSATI</u>	Director	November 24, 2008

Mario M. Rosati

/s/ A. EUGENE SAPP, JR.

Director

November 24, 2008

A. Eugene Sapp, Jr.

/s/ WAYNE SHORTRIDGE

Director

November 24, 2008

Wayne Shortridge

/s/ JACQUELYN M. WARD

Director

November 24, 2008

Jacquelyn M. Ward

## EXHIBIT INDEX

Exhibit Number	Description
3.1(1)	Restated Certificate of Incorporation of the Registrant, dated January 31, 1996.
3.2(2)	Certificate of Amendment of the Restated Certificate of Incorporation of the Registrant, dated March 9, 2001.
3.3(3)	Certificate of Designation of Rights, Preferences and Privileges of Series A Participating Preferred Stock of the Registrant, dated May 31, 2001.
3.4(4)	Certificate of Amendment of the Restated Certificate of Incorporation of the Registrant, dated December 7, 2001.
3.5(5)	Amended and Restated Bylaws of Sanmina-SCI Corporation adopted by the Board of Directors on September 8, 2008.
4.1(6)	Preferred Stock Rights Agreement, dated as of May 17, 2001 between the Registrant and Wells Fargo National Bank, Minnesota, N.A., including the form of Certificate of Determination, the form of Rights Certificate and the Summary of Rights attached thereto as Exhibits A, B, and C.
4.2(7)	Supplemental Indenture No. 3, dated as of October 7, 2005, to the Subordinated Indenture, by and among SCI Systems, Inc., Sanmina-SCI USA, Inc. and J.P. Morgan Trust Company, National Association, as trustee.
4.3(8)	Subordinated Indenture dated March 15, 2000, between SCI Systems, Inc. and Bank One Trust Company, National Association, as Trustee ("Subordinated Indenture").
4.4(9)	Supplemental Indenture No. 1, dated as of March 15, 2000, to the Subordinated Indenture, between SCI Systems, Inc. and Bank One Trust Company, National Association, as Trustee.
4.5(10)	Supplemental Indenture No. 2, dated as of December 7, 2001, to the Subordinated Indenture, by and among SCI Systems, Inc., Sanmina Corporation, as Guarantor, and Bank One Trust Company, National Association, as Trustee.
4.6(11)	Indenture, dated as of December 23, 2002, among the Registrant, the Guarantors Party thereto and State Street Bank and Trust Company California, N.A., as trustee.
4.7(12)	First Supplemental Indenture, dated as of July 21, 2003, among Newisys, Inc., the Registrant and U.S. Bank National Association, as trustee.
4.8(13)	Second Supplemental Indenture, dated as of September 30, 2005, among Sanmina-SCI USA, Inc., the Registrant and U.S. Bank National Association, as trustee.
4.9(14)	Intercreditor Agreement, dated as of December 23, 2002, by and among, as second lien collateral trustees, LaSalle Business Credit, Inc., as collateral agent, State Street Bank and Trust Company of California, N.A. and each New First Lien Claimholder Representative which May become a party from time to time, and the Registrant.
4.10(15)	Sanmina-SCI Corporation Second Lien Collateral Trust Agreement, dated as of December 23, 2002, by and among the Registrant, the subsidiaries of the Registrant party thereto and State Street Bank and Trust Company of California, N.A., as second lien collateral trustee.
4.11(16)	Indenture, dated as of February 24, 2005, among the Registrant, the guarantors party thereto and U.S. Bank National Association, as trustee.
4.12(17)	First Supplemental Indenture, dated as of September 30, 2005, among Sanmina-SCI USA, Inc., the Registrant and U.S. Bank National Association, as trustee.

Exhibit Number	Description
4.13(18)	Second Supplemental Indenture, dated as of January 3, 2007, among the Registrant and U.S. Bank National Association, as trustee.
4.14(19)	Indenture, dated as of February 15, 2006, among the Registrant, certain subsidiaries of the Registrant as guarantors there under and U.S. Bank National Association, as trustee.
4.15(20)	First Supplemental Indenture, dated as of January 3, 2007, among the Registrant and U.S. Bank National Association, as trustee.
4.16(21)	Amended and Restated Credit and Guaranty Agreement, dated as of December 16, 2005, among the Registrant, the guarantors party thereto, the lenders party thereto, Citibank, N.A., as Collateral Agent, and Bank of America, N.A., as Administrative Agent.
4.17(22)	Amendment No.3 and Waiver to Amended and Restated Credit and Guaranty Agreement, dated as of December 29, 2006, among the Registrant, the guarantors party thereto, the lenders party thereto, Citibank, N.A., as Collateral Agent, and Bank of America, N.A., as Administrative Agent.
4.18(23)	Amendment No. 4 to Amended and Restated Credit and Guaranty Agreement, dated as of June 5, 2007, by and among Registrant, each of the subsidiaries of Registrant party thereto, the lenders party thereto, Citibank, N.A., as collateral agent, and Bank of America, N.A., as Administrative Agent.
4.19(24)	Indenture, dated as of June 12, 2007, among Registrant, the guarantors party thereto, and Wells Fargo Bank, National Association as trustee, relating to the Senior Floating Rate Notes due 2010.
4.20(25)	Indenture, dated as of June 12, 2007, among Registrant, the guarantors party thereto, and Wells Fargo Bank, National Association as trustee, relating to the Senior Floating Rate Notes due 2014.
10.1(26)	Amended 1990 Incentive Stock Plan.
10.2(27)	1999 Stock Plan.
(28)	
10.3(10)	Addendum to the 1999 Stock Plan (Additional Terms and Conditions for Employees of the French subsidiary(ies)), dated February 21, 2001.

- 10.4(29) 1995 Director Option Plan.
- 10.5(30) 1996 Supplemental Stock Plan.
- 10.6(31) Hadco Corporation Non-Qualified Stock Option Plan, as Amended and Restated July 1, 1998.
- 10.7(32) SCI Systems, Inc. 1994 Stock Option Incentive Plan.
- 10.8.(33) SCI Systems, Inc. 2000 Stock Incentive Plan.
- 10.9.(34) SCI Systems, Inc. Board of Directors Deferred Compensation Plan.
- 10.10(35) Form of Indemnification Agreement executed by the Registrant and its officers and directors pursuant to the Delaware reincorporation.
- 10.11(36) Amended and Restated Sanmina-SCI Corporation Deferred Compensation Plan for Outside Directors.  
(28)
- 10.12(10) Rules of the Sanmina-SCI Corporation Stock Option Plan 2000 (Sweden).
- 10.13(10) Rules of the Sanmina-SCI Corporation Stock Option Plan 2000 (Finland).

<u>Exhibit Number</u>	<u>Description</u>
10.14(37) (28)	Amended and Restated Sanmina-SCI Corporation Deferred Compensation Plan dated June 9, 2008.
10.15(38)	2003 Employee Stock Purchase Plan.
10.16(39)	Committed Account Receivable Purchase Agreement, dated April 1, 2005, between Sanmina-SCI UK Limited and Citibank International Plc.
10.17(40)	Committed Account Receivable Purchase Agreement, dated April 1, 2005, between Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Citibank International Plc.
10.18(41)	Revolving Receivables Purchase Agreement, dated as of September 23, 2005, among Sanmina-SCI Magyarország Elektronikai Gyarto Kft, Sanmina-SCI Systems de Mexico S.A. de C.V., as Originators, the Registrant and Sanmina-SCI UK Ltd., as Servicers, the banks and financial institutions party thereto from time to time, and Deutsche Bank AG New York, as Administrative Agent.
10.19(42)	Randy Furr separation agreement.
10.20(43)	Revolving Trade Receivables Purchase Agreement, dated as of September 21, 2007, among Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Sanmina-SCI Systems de Mexico, S.A. de C.V., as Originators, the Registrant, Sanmina-SCI UK Ltd., and Sanmina-SCI Israel Medical Ltd., as Servicers, the banks and financial institutions party thereto from time to time, and Deutsche Bank AG New York, as Administrative Agent.
10.21(44)	Form of First Amendment to the Revolving Trade Receivables Purchase Agreement, dated as of September 21, 2007, among Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Sanmina-SCI Systems de Mexico, S.A. de C.V., as Originators, Sanmina-SCI Corporation and Sanmina-SCI UK Ltd., as Servicers, the several banks and other financial institutions or entities from time to time party thereto, as Purchasers, and Deutsche Bank AG New York Branch, as Administrative Agent, dated November 26, 2007.
10.22(45) (28)	Employment Agreement dated as of August 28, 2007 by and between the Registrant and Joseph Bronson.
10.23(46) (28)	Employment Agreement dated as of June 15, 2007 by and between the Registrant and Walter Hussey.
10.24(47) (28)	Employment Agreement dated as of March 2, 2007 by and between the Registrant and Michael Tyler.
10.25(48)	Asset Purchase and Sale Agreement dated February 17, 2008 by and among Sanmina-SCI Corporation, Sanmina-SCI USA Inc., SCI Technology, Inc., Sanmina-SCI Systems de Mexico S.A. de C.V., Sanmina-SCI Systems Services de Mexico S.A. de C.V., Sanmina-SCI Hungary Electronics Manufacturing Limited Liability Company, Sanmina-SCI Australia PTY LTD and Foxteq Holdings, Inc.
10.26(49)	Amendment to Asset Purchase Agreement dated February 17, 2008 by and among Sanmina-SCI Corporation, Sanmina-SCI USA Inc., SCI Technology, Inc., Sanmina-SCI Systems de Mexico S.A. de C.V., Sanmina-SCI Systems Services de Mexico S.A. de C.V., Sanmina-SCI Hungary Electronics Manufacturing Limited Liability Company, Sanmina-SCI Australia PTY LTD and Foxteq Holdings, Inc., dated July 7, 2008.
10.27(50) (28)	Description of fiscal 2008 Non-employee Directors Compensation Arrangements.
10.28(51) (28)	Employment offer letter dated July 20, 2004 between Sanmina-SCI Corporation and David White.

<u>Exhibit Number</u>	<u>Description</u>
10.29(52)	Asset Purchase Agreement dated April 25, 2008 by and among Sanmina-SCI USA Inc., Sanmina-SCI Systems de Mexico S.A. de C.V., Sanmina-SCI Systems Services de Mexico S.A. de C.V., Lenovo (Singapore) Pte.Ltd. and Lenovo Centro Tecnológico, SdeRL de C.V.
10.30(53)	First Amendment Agreement, dated as of November 26, 2007 to the Revolving Trade Receivables Purchase Agreement dated as of September 21, 2007 among Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Sanmina-SCI Systems de Mexico, S.A. de C.V., as Originators, Sanmina-SCI Corporation and Sanmina-SCI UK Ltd, as Services, the several banks and other financial institutions or entities from time to time parties thereto, as Purchasers and Deutsche Bank AG New York Branch, as Administrative Agent.
10.31(54)	Second Amendment Agreement, dated as of March 21, 2008 to the Revolving Trade Receivables Purchase Agreement dated as of September 21, 2007 among Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Sanmina-SCI Systems de Mexico, S.A. de C.V., as Originators, Sanmina-SCI Corporation and Sanmina-SCI UK Ltd, as Services, the several banks and other financial institutions or entities from time to time parties thereto, as Purchasers and Deutsche Bank AG New York Branch, as Administrative Agent.
10.32(55)	Third Amendment Agreement, dated as of April, 30, 2008 to the Revolving Trade Receivables Purchase Agreement dated as of September 21, 2007 among Sanmina-SCI Magyarország Elektronikai Gyarto Kft and Sanmina-SCI Systems de Mexico, S.A. de C.V., as Originators, Sanmina-SCI Corporation and Sanmina-SCI UK Ltd, as Services, the several banks and other financial institutions or entities from time to time parties thereto, as Purchasers and Deutsche Bank AG New York Branch, as Administrative Agent.
10.33(56) (28)	Revised form of Officer and Director Indemnification Agreement.
10.34(57)	Revolving Trade Receivables Purchase Agreement dated June 26, 2008 by and among, Sanmina-SCI Corporation, Deutsche Bank AG New York, as administrative agent, and Sanmina-SCI Magyarország Elektronikai Gyártó Kft, Sanmina

Magyarország Elektrotechnikai Részegységgyártó Kft, Sanmina-SCI EMS Haukipudas OY, a limited liability company incorporated under the laws of the Republic of Finland, Sanmina-SCI Enclosure Systems OY, Sanmina-SCI Systems Singapore Pte. Ltd., Sanmina-SCI Israel Medical Systems Ltd., Sanmina-SCI Systems Canada, Inc., Sanmina-SCI Systems (Thailand) Ltd., and Sanmina-SCI UK Ltd.

10.35(58) Sanmina-SCI FY 2008 Corporate Annual G&A Short Term Incentive Plan.  
(28)

10.36 Loan, Guaranty and Security Agreement, dated as of November 19, 2008, among Sanmina-SCI Corporation and certain of its subsidiaries as borrowers, Sanmina-SCI Systems (Canada) Inc. and SCI Brockville Corp., as Designated Canadian Guarantors, the financial institutions party thereto from time to time as lenders and Bank of America, N.A., as agent for such lenders (filed herewith).

14.1 Sanmina-SCI Corporation Code of Business Conduct and Ethics (filed herewith).

21.1 Subsidiaries of the Registrant (filed herewith).

23.1 Consent of KPMG LLP, independent registered public accounting firm (filed herewith).

<b>Exhibit Number</b>	<b>Description</b>
31.1	Certification of the Principal Executive Officer pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
31.2	Certification of the Principal Financial Officer pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).
32.1(59)	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).
32.2(59)	Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).

- (1) Incorporated by reference to Exhibit 3.2 to the Registrant's Report on Form 10-K for the fiscal year ended September 30, 1996, SEC File No. 000-21272, filed with the Securities and Exchange Commission ("SEC") on December 24, 1996.
- (2) Incorporated by reference to Exhibit 3.1(a) to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2001, filed with the SEC on May 11, 2001.
- (3) Incorporated by reference to Exhibit 3.1.3 to the Registrant's Report on Form 10-K for the fiscal year ended September 30, 2001, filed with the SEC on December 21, 2001.
- (4) Incorporated by reference to Exhibit 3.1.2 to the Registrant's Registration Statement on Form S-4 filed with the SEC on August 10, 2001.
- (5) Incorporated by reference to Exhibit 3.2 to Registrant's Form 8-K filed on September 12, 2008.
- (6) Incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form 8-A filed with the SEC on May 25, 2001.
- (7) Incorporated by reference to Exhibit 4.2.3 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (8) Incorporated by reference to Exhibit 2.2 to SCI Systems, Inc.'s Registration Statement on Form 8-A12B, SEC File No. 001-12821, filed with the SEC on March 9, 2000.
- (9) Incorporated by reference to Exhibit 4.1 to SCI Systems, Inc.'s Report on Form 8-K, SEC File No. 001-12821, filed with the SEC on April 5, 2000.
- (10) Incorporated by reference to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 28, 2002, filed on December 4, 2002.
- (11) Incorporated by reference to Exhibit 4.7 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended December 28, 2002, filed February 11, 2003.
- (12) Incorporated by reference to Exhibit 4.7.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (13) Incorporated by reference to Exhibit 4.7.2 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (14) Incorporated by reference to Exhibit 4.9 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended December 28, 2002, filed February 11, 2003.
- (15) Incorporated by reference to Exhibit 4.10 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended December 28, 2002, filed February 11, 2003.

- (16) Incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed on February 24, 2005.
- (17) Incorporated by reference to Exhibit 4.13.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (18) Incorporated by reference to Exhibit 4.13.2 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2006, filed January 3, 2007.
- (19) Incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K filed on February 15, 2006.
- (20) Incorporated by reference to Exhibit 4.14.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2006, filed January 3, 2007.
- (21) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed on December 22, 2005.
- (22) Incorporated by reference to Exhibit 4.15.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2006, filed January 3, 2007.
- (23) Incorporated by reference to Exhibit 10.1 to the Registrant's Registration Statement on Form 8-K filed June 6, 2007.
- (24) Incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form 8-K filed June 13, 2007.
- (25) Incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form 8-K filed June 13, 2007.
- (26) Incorporated by reference to Exhibit 10.2 to the Registrant's Report on Form 10-K, SEC File No. 000-21272, filed with the SEC on December 29, 1994.
- (27) Incorporated by reference to Exhibit 4.3 to the Registrant's Report on Form S-8, filed with the SEC on May 25, 1999.
- (28) Compensatory plan in which an executive officer or director participates.
- (29) Incorporated by reference to Exhibit 10.4 to the Registrant's Registration Statement on Form S-8, SEC File No. 333-23565, filed with the SEC on March 19, 1997.
- (30) Incorporated by reference to Exhibit 10.1 to the Registrant's Registration Statement on Form S-8, SEC File No. 333-23565, filed with the SEC on March 19, 1997.
- (31) Incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form S-8, filed with the SEC on June 23, 2000.
- (32) Incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form S-8, filed with the SEC on December 20, 2001.
- (33) Incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form S-8, filed with the SEC on December 20, 2001.
- (34) Incorporated by reference to Exhibit 4.3 to the Registrant's Registration Statement on Form S-8, filed with the SEC on December 20, 2001.
- (35) Incorporated by reference to Exhibit 10.42 to the Registrant's Registration Statement on Form S-1, SEC File No. 33-70700, filed with the SEC on February 19, 1993.
- (36) Incorporated by reference to Exhibit 10.75 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008 filed August 4, 2008.



- (37) Incorporated by reference to Exhibit 10.74 to the Registrant's Form 10-Q for the fiscal quarter ended June 28, 2008 filed August 4, 2008.
- (38) Incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form S-8, filed with the SEC on April 23, 2003.
- (39) Incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended April 2, 2005, filed on May 12, 2005.
- (40) Incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended April 2, 2005, filed on May 12, 2005.
- (41) Incorporated by reference to Exhibit 10.57 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (42) Incorporated by reference to Exhibit 10.58 to the Registrant's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, filed December 29, 2005.
- (43) Incorporated by reference to Exhibit 10.57 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 29, 2007, filed November 28, 2007.
- (44) Incorporated by reference to Exhibit 10.1 to the Registrant's Form 10-Q for the fiscal quarter ended December 29, 2007 filed January 31, 2008.
- (45) Incorporated by reference to Exhibit 10.60 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 29, 2007, filed November 28, 2007.
- (46) Incorporated by reference to Exhibit 10.61 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 29, 2007, filed November 28, 2007.
- (47) Incorporated by reference to Exhibit 10.62 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 29, 2007, filed November 28, 2007.
- (48) Incorporated by reference to Exhibit 10.64 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (49) Incorporated by reference to Exhibit 10.71 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008, filed August 4, 2008.
- (50) Incorporated by reference to Exhibit 10.65 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (51) Incorporated by reference to Exhibit 10.66 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (52) Incorporated by reference to Exhibit 10.67 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (53) Incorporated by reference to Exhibit 10.68 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (54) Incorporated by reference to Exhibit 10.69 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (55) Incorporated by reference to Exhibit 10.70 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2008, filed May 6, 2008.
- (56) Incorporated by reference to Exhibit 10.42 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008, filed August 4, 2008.

- (57) Incorporated by reference to Exhibit 10.72 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008, filed August 4, 2008.
- (58) Incorporated by reference to Exhibit 10.73 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008, filed August 4, 2008.
- (59) This exhibit shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that Section, nor shall it be deemed incorporated by reference in any filings under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language in any filings.

QuickLinks

SANMINA-SCI CORPORATION  
INDEX  
PART I

Item 1. Business

Item 1A. Risk Factors Affecting Operating Results

Item 1B. Unresolved Staff Comments

Item 2. Properties

Item 3. Legal Proceedings

Item 4. Submission of Matters to a Vote of Security Holders

EXECUTIVE OFFICERS  
PART II

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

Item 6. Selected Financial Data

FIVE YEAR SELECTED FINANCIAL HIGHLIGHTS

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

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Item 8. Financial Statements and Supplementary Data

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

Item 9A. Controls and Procedures

Item 9B. Other Information

PART III

PART IV

Item 15. Exhibits and Financial Statement Schedules

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

SANMINA-SCI CORPORATION CONSOLIDATED BALANCE SHEETS

SANMINA-SCI CORPORATION CONSOLIDATED STATEMENTS OF OPERATIONS

SANMINA-SCI CORPORATION CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS

SANMINA-SCI CORPORATION CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

SANMINA-SCI CORPORATION CONSOLIDATED STATEMENTS OF CASH FLOWS

SANMINA-SCI CORPORATION NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

FINANCIAL STATEMENT SCHEDULE

SANMINA-SCI CORPORATION SCHEDULE II—VALUATION AND QUALIFYING ACCOUNTS

SIGNATURES

EXHIBIT INDEX

**SANMINA-SCI CORPORATION,  
HADCO CORPORATION,  
HADCO SANTA CLARA, INC.,  
SANMINA-SCI SYSTEMS HOLDINGS, INC.,  
SCI TECHNOLOGY, INC. &  
SCIMEX, INC.**

as Borrowers,

**SANMINA-SCI SYSTEMS (CANADA) INC. &  
SCI BROCKVILLE CORP.**

as Designated Canadian Guarantors

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**LOAN, GUARANTY AND SECURITY AGREEMENT**

Dated as of November 19, 2008

\$135,000,000

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**CERTAIN FINANCIAL INSTITUTIONS,**

as Lenders,

**BANK OF AMERICA, N.A. ,**

as Agent,

**BANC OF AMERICA SECURITIES LLC &  
DEUTSCHE BANK SECURITIES INC.**

as Joint Lead Arrangers and Joint Book Managers

and

**DEUTSCHE BANK TRUST COMPANY AMERICAS**

as Syndication Agent

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## **TABLE OF CONTENTS**

	<b><u>Page</u></b>
SECTION 1. DEFINITIONS; RULES OF CONSTRUCTION	1
1.1 Definitions	1
1.2 Accounting Terms	34
1.3 Uniform Commercial Code	34
1.4 Certain Matters of Construction	34
SECTION 2. CREDIT FACILITIES	35
2.1 Commitment	35
2.2 Letter of Credit Facility	37
2.3 Increase in the Aggregate Commitments	40
SECTION 3. INTEREST, FEES AND CHARGES	42
3.1 Interest	42
3.2 Fees	43
3.3 Computation of Interest, Fees, Yield Protection	44
3.4 Reimbursement Obligations	44
3.5 Illegality	45
3.6 Inability to Determine Rates	45
3.7 Increased Costs; Capital Adequacy	45
3.8 Mitigation	47
3.9 Funding Losses	47
3.10 Maximum Interest	47
3.11 Removal or Replacement of a Lender	47
SECTION 4. LOAN ADMINISTRATION	48
4.1 Manner of Borrowing and Funding Loans	48
4.2 Defaulting Lender	50
4.3 Number and Amount of LIBOR Loans; Determination of Rate	50
4.4 Borrower Agent	50
4.5 One Obligation	51
4.6 Effect of Termination	51
SECTION 5. PAYMENTS	51
5.1 General Payment Provisions	51

5.2	Repayment of Loans	51
5.3	Payment of Other Obligations	52
5.4	Marshaling; Payments Set Aside	52
5.5	Post-Default Allocation of Payments	52
5.6	Application of Payments	53
5.7	Loan Account; Account Stated	53
5.8	Taxes	54
5.9	Lender Tax Information	54
5.10	Nature and Extent of Each Borrower's Liability	56
SECTION 6.	CONDITIONS PRECEDENT	58
6.1	Conditions Precedent to Initial Loans	58
6.2	Conditions Precedent to All Credit Extensions	60
SECTION 7.	COLLATERAL	60
7.1	Grant of Security Interest	60
7.2	Lien on Deposit Accounts; Cash Collateral	61
7.3	Other Collateral	62
7.4	No Assumption of Liability	62
7.5	Further Assurances	62
7.6	ULC Shares	62
SECTION 8.	COLLATERAL ADMINISTRATION	63
8.1	Borrowing Base Certificates	63
8.2	Administration of Accounts	63
8.3	Administration of Inventory	64
8.4	Administration of Deposit Accounts	65
8.5	General Provisions	65
8.6	Power of Attorney	67
SECTION 9.	REPRESENTATIONS AND WARRANTIES	68
9.1	General Representations and Warranties	68
9.2	Complete Disclosure	74
SECTION 10.	COVENANTS AND CONTINUING AGREEMENTS	75
10.1	Affirmative Covenants	75
10.2	Negative Covenants	80
10.3	Financial Covenant	93

---

10.4	Post-Closing Covenants	93
SECTION 11.	EVENTS OF DEFAULT; REMEDIES ON DEFAULT	94
11.1	Events of Default	94
11.2	Remedies upon Default	96
11.3	License	97
11.4	Setoff	97
11.5	Remedies Cumulative; No Waiver	98
SECTION 12.	AGENT	98
12.1	Appointment, Authority and Duties of Agent	98
12.2	Agreements Regarding Collateral and Field Examination Reports	100
12.3	Reliance By Agent	101
12.4	Action Upon Default	101
12.5	Ratable Sharing	101
12.6	Indemnification of Agent Indemnitees	101
12.7	Limitation on Responsibilities of Agent	102
12.8	Successor Agent and Co-Agents	102
12.9	Due Diligence and Non-Reliance	103
12.10	Replacement of Certain Lenders	103
12.11	Remittance of Payments and Collections	104
12.12	Agent in its Individual Capacity	104
12.13	Agent Titles	104
12.14	No Third Party Beneficiaries	105
SECTION 13.	BENEFIT OF AGREEMENT; ASSIGNMENTS AND PARTICIPATIONS	105
13.1	Successors and Assigns	105
13.2	Participations	105
13.3	Assignments	106
SECTION 14.	GUARANTY	106
14.1	Guaranty of the Obligations	106
14.2	Contribution by Guarantors	107
14.3	Payment by Guarantors	107
14.4	Liability of Guarantors Absolute	108
14.5	Waivers by Guarantors	110
14.6	Guarantors' Rights of Subrogation, Contribution, Etc.	111



---

14.7	Subordination of Other Obligations	111
14.8	Continuing Guaranty	112
14.9	Authority of Guarantors or Borrowers	112
14.10	Financial Condition of Borrowers	112
14.11	Bankruptcy, Etc.	112
SECTION 15.	MISCELLANEOUS	113
15.1	Consents, Amendments and Waivers	113
15.2	Indemnity	114
15.3	Notices and Communications	114
15.4	Performance of Obligors' Obligations	115
15.5	Credit Inquiries	115
15.6	Severability	115
15.7	Cumulative Effect; Conflict of Terms	115
15.8	Counterparts	116
15.9	Entire Agreement	116
15.10	Relationship with Lenders	116
15.11	No Advisory or Fiduciary Responsibility	116
15.12	Confidentiality	116
15.13	Certifications Regarding Indentures	117
15.14	GOVERNING LAW	117
15.15	Consent to Forum	117
15.16	Waivers by Obligors	118
15.17	Patriot Act Notice	118
15.18	Judgment Currency	118
15.19	Language	119
15.20	Securitization Subsidiaries	119
15.21	Discharge of Obligor Upon Sale of Obligor	119

## **LIST OF EXHIBITS AND SCHEDULES**

Exhibit A	Revolver Note
Exhibit B	Assignment and Acceptance
Exhibit C	Assignment Notice
Exhibit D	Form of Joinder Agreement
Exhibit E	Form of Lockbox Control and Intercreditor Agreement

Schedule 1.1(a)	Commitments of Lenders
Schedule 1.1(b)	Designated Canadian Guarantors
Schedule 2.2.4	Existing Letters of Credit

## LOAN, GUARANTY AND SECURITY AGREEMENT

**THIS LOAN, GUARANTY AND SECURITY AGREEMENT** (this “Agreement”) is dated as of November 19, 2008, among **SANMINA-SCI CORPORATION**, a Delaware corporation (“Sanmina”), **HADCO CORPORATION**, a Massachusetts corporation (“Hadco”), **HADCO SANTA CLARA, INC.**, a Delaware corporation (“Hadco Santa Clara”), **SANMINA-SCI SYSTEMS HOLDINGS, INC.**, a Delaware corporation (“SSCI Holdings”), **SCI TECHNOLOGY, INC.**, an Alabama corporation (“SCI Technology”), **SCIMEX, INC.**, an Alabama corporation (“Scimex”, and together with Sanmina, Hadco, Hadco Santa Clara, SSCI Holdings and SCI Technology, collectively, “Borrowers”), **SANMINA-SCI SYSTEMS (CANADA) INC.**, a Nova Scotia limited company, and **SCI BROCKVILLE CORP.**, a Nova Scotia unlimited company, each as a Designated Canadian Guarantor, the financial institutions party to this Agreement from time to time as lenders (collectively, “Lenders”), and **BANK OF AMERICA, N.A.**, a national banking association, as agent for the Lenders (“Agent”).

### RECITALS:

Borrowers have requested that Lenders provide a credit facility to Borrowers to finance their mutual and collective business enterprise. Lenders are willing to provide the credit facility on the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, for valuable consideration hereby acknowledged, the parties agree as follows:

### A G R E E M E N T :

#### **SECTION 1. DEFINITIONS; RULES OF CONSTRUCTION**

1.1 Definitions. As used herein, the following terms have the meanings set forth below:

2008 Corporate Reorganization: the corporate reorganization undertaken by Sanmina and its Domestic Subsidiaries on or prior to the date hereof, as described in **Schedule 1.1(a)** to the Disclosure Letter, and any changes or modifications thereto with the consent of Agent (which consent will not be unreasonably withheld or delayed).

2009 Corporate Reorganization: the corporate reorganization to be undertaken by Sanmina and its Subsidiaries, as described in **Schedule 1.1(a)** to the Disclosure Letter, and any changes or modifications thereto with the consent of Agent (which consent will not be unreasonably withheld or delayed).

2008/2009 Corporate Reorganizations: the 2008 Corporate Reorganization and the 2009 Corporate Reorganization.

Accordion Effective Date: as defined in **Section 2.3(a)**.

Accordion Increase: as defined in **Section 2.3(a)**.

Account : as defined in the UCC, including all rights to payment for goods sold or leased, or for services rendered.

Account Debtor : a Person who is obligated under an Account, Chattel Paper or General Intangible.

Accounts Formula Amount : the sum of (a) 85% of the Value of Eligible Accounts and (b) the lesser of (i) 65% of the Value of Eligible Foreign Accounts and (ii) 7.5% of the aggregate Commitments.

Adjusted Availability Block : \$25,000,000.

Affiliate : with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have correlative meanings.

Agent Indemnitees : Agent and its officers, directors, employees, Affiliates, branches, agents and attorneys.

Agent Professionals : attorneys, accountants, appraisers, auditors, business valuation experts, environmental engineers or consultants, turnaround consultants, and other professionals and experts retained by Agent.

Aggregate Payments : as defined in **Section 14.2** .

Allocable Amount : as defined in **Section 5.10.3** .

Alternate Base Rate : the greater of (i) the Base Rate and (ii) LIBOR for a 30 day Interest Period, as determined on each respective date of determination, plus 150 basis points.

Anti-Terrorism Laws : any laws relating to terrorism or money laundering, including the Patriot Act.

Applicable Law : all laws, rules, regulations and binding governmental guidelines applicable to the Person, conduct, transaction, agreement or matter in question, including all applicable statutory law, common law and equitable principles, and all provisions of constitutions, treaties, statutes, rules, regulations, orders, rulings and decrees of Governmental Authorities having jurisdiction over such Person.

Applicable Margin : with respect to any Type of Loan, as of any date, the margin set forth below opposite the Availability Ratio for the calendar quarter preceding such date:

Level	Availability Ratio	Base Rate Loans	LIBOR Loans
I	< 25%	2.25%	3.25%
II	≥ 25% < 50%	2.00%	3.00%
III	≥ 50% < 75%	1.75%	2.75%
IV	≥ 75%	1.50%	2.50%

Until March 31, 2009, margins shall be determined as if Level III were applicable. Thereafter, the margins shall be subject to increase or decrease as of the end of each calendar quarter upon the determination by Agent of the Availability Ratio for such calendar quarter, provided, that after receipt of a Compliance Certificate for a particular Fiscal Quarter as provided in **Section 10.1.2**, if the Fixed Charge Coverage Ratio as of the end of such Fiscal Quarter is at least 1.00 : 1.00, each margin set forth above for the immediately succeeding calendar quarter shall be reduced by 0.25%.

Approved Fund: any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in its ordinary course of activities, and is administered or managed by a Lender, an entity that administers or manages a Lender, or an Affiliate of either.

Asset Disposition: a sale, lease, license, consignment, transfer or other disposition of Property of an Obligor, including (i) a disposition of Property in connection with a sale-leaseback transaction or synthetic lease and (ii) any involuntary loss resulting from a casualty event or condemnation.

Assignment and Acceptance: an assignment agreement between a Lender and Eligible Assignee, in the form of **Exhibit B**.

Assuming Lender: as defined in **Section 2.3(d)**.

Assumption Agreement: as defined in **Section 2.3(d)**.

Availability: the Borrowing Base minus the sum of the principal balance of all Loans and LC Obligations (not to include the amount equal to LC Reserves included in the definition of Borrowing Base).

Availability Block: (i) prior to the Availability Election, \$50,000,000; and (ii) after the Availability Election, \$25,000,000.

Availability Conditions: as of any date and in respect of any proposed transaction, the existence of each of the following conditions: (a) average Availability after giving effect to such transaction on a pro forma basis during the preceding 30 day period is greater than or equal to \$75,000,000 (provided that up to \$50,000,000 of such Availability requirement can be satisfied to the extent of the amount of cash or Cash Equivalents held in a Cash Collateral Account at Agent), (b) the Availability after giving effect to such transaction on a pro forma basis is greater than or equal to \$75,000,000 (provided that up to \$50,000,000 of such Availability requirement can be satisfied to the extent of the amount of cash or Cash Equivalents held in a Cash Collateral

Account at Agent) and (c) no Default or Event of Default exists or would result from such transaction; provided that for the purposes of this definition, each of the \$75,000,000 Availability thresholds shall be increased to \$100,000,000 if the amount of the Commitments is increased pursuant to **Section 2.3** to an aggregate amount in excess of \$250,000,000.

Availability Election: the irrevocable one-time election made by written notice from Borrower Agent to Agent stating that it elects to reduce the Availability Block as contemplated by the definition thereof; provided, such election may be made only within the 60-day period immediately following any two consecutive Fiscal Quarters in respect of which the Fixed Charge Coverage Ratio is at least 1.00 : 1.00.

Availability Ratio: the ratio, expressed as a percentage, for any calendar quarter, of (a) the average Availability during such quarter to (b) the average amount of the Borrowing Base during such quarter.

Availability Reserve: the sum (without duplication) of (i) the Inventory Reserve; (ii) the Rent and Charges Reserve; (iii) the LC Reserve; (iv) the Bank Product Reserve; (v) the aggregate amount of liabilities secured by Liens upon Collateral that are senior to Agent's Liens (but imposition of any such reserve shall not waive an Event of Default arising therefrom); (vi) a reserve in respect of Hedging Agreements with one or more Lenders or Affiliates to reflect mark to market value risks relating thereto; (vii) Priority Payables; (viii) the Dilution Reserve; and (ix) such additional reserves, in such amounts and with respect to such matters, as Agent in its Credit Judgment may elect to impose from time to time.

Bank of America: Bank of America, N.A., a national banking association, and its successors and assigns.

Bank of America Indemnitees: Bank of America and its officers, directors, employees, Affiliates, agents, branches and attorneys.

Bank Product: any of the following products, services or facilities extended to any Borrower or Subsidiary (but only to Sanmina in the case of Hedging Agreements) by a Lender or any of its Affiliates: (a) Cash Management Services; (b) products under Hedging Agreements entered into by Sanmina; (c) commercial credit card and merchant card services; and (d) other banking products or services as may be requested by any Borrower or Subsidiary, other than Letters of Credit; provided, however, that for any of the foregoing to be included as an "Obligation" for purposes of a distribution under **Section 5.5.1**, the applicable Secured Party and Obligor must have previously provided written notice to Agent of (i) the existence of such Bank Product, (ii) the maximum dollar amount of obligations arising thereunder to be included as a Bank Product Reserve (" Bank Product Amount "), and (iii) the methodology to be used by such parties in determining the Bank Product Debt owing from time to time. The Bank Product Amount may be changed from time to time upon written notice to Agent by the Secured Party and Obligor. No Bank Product Amount may be established or increased at any time that a Default or Event of Default exists, or if a reserve in such amount would cause an Overadvance.

Bank Product Amount: as defined in the definition of Bank Product.

Bank Product Debt: Debt and other obligations of an Obligor relating to Bank Products.

Bank Product Reserve: the aggregate amount of reserves established by Agent from time to time in its discretion in respect of Bank Product Debt, which shall be at least equal to the sum of all Bank Product Amounts.

Bankruptcy Code: Title 11 of the United States Code.

Base Rate: the rate of interest announced by Bank of America from time to time as its prime rate. Such rate is set by Bank of America on the basis of various factors, including its costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above or below such rate. Any change in such rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

Base Rate Loan: a Loan that bears interest based on the Alternate Base Rate.

Board of Governors: the Board of Governors of the Federal Reserve System.

Borrowed Money: with respect to any Person, without duplication, its (a) Debt that (i) arises from the lending of money by any Person to such Person, (ii) is evidenced by notes, drafts, bonds, debentures, credit documents or similar instruments, (iii) accrues interest or is a type upon which interest charges are customarily paid (excluding accounts payables owing in the Ordinary Course of Business), or (iv) was issued or assumed as full or partial payment for Property (excluding accounts payables owing in the Ordinary Course of Business); (b) Capital Leases; (c) reimbursement obligations with respect to letters of credit; and (d) guaranties of any Debt of the foregoing types owing by another Person; provided that in no event shall Borrowed Money include any obligations under or with respect to an operating lease (regardless of any change in the treatment thereof under GAAP with respect to operating leases outstanding prior to the effectiveness of any such change in treatment.)

Borrower Agent: as defined in **Section 4.4**.

Borrowing: a group of Loans of one Type that are made on the same day or are converted into Loans of one Type on the same day.

Borrowing Base: on any date of determination:

(x) prior to the Availability Election, a Dollar Equivalent amount equal to the lesser of (a) the aggregate amount of Commitments, minus the Adjusted Availability Block, minus the LC Reserve; or (b) the sum of the Accounts Formula Amount, plus the Inventory Formula Amount, minus the Availability Block, minus the Availability Reserve; and

(y) after the Availability Election, a Dollar Equivalent amount equal to the lesser of (a) the aggregate amount of Commitments, minus the LC Reserve; or (b) the sum of the Accounts Formula Amount, plus the Inventory Formula Amount, minus the Availability Reserve, minus the Availability Block.

Borrowing Base Certificate : a certificate, in form and substance satisfactory to Agent, by which Borrower Agent certifies calculation of the Borrowing Base.



Business Day: any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, North Carolina and California, and if such day relates to a LIBOR Loan, any such day on which dealings in Dollar deposits are conducted between banks in the London interbank Eurodollar market.

Canadian Obligor: an Obligor organized under the laws of Canada or any province or territory thereof.

Canadian Plan: any pension or other employee benefit plan and which is: (a) a plan maintained by any Canadian Subsidiary; (b) a plan to which any Canadian Subsidiary contributes or is required to contribute; (c) a plan to which any Canadian Subsidiary was required to make contributions at any time during the five (5) calendar years preceding the date of this Agreement; or (d) any other plan with respect to which any Canadian Subsidiary or any of its Subsidiaries or Affiliates has incurred or may incur liability, including contingent liability either to such plan or to any Person, administration or Governmental Authority, including the FSCO.

Canadian Subsidiary: a Subsidiary organized under the laws of Canada or any province or territory thereof.

Capital Lease: any lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

Cash Collateral: cash, and any interest or other income earned thereon, that is delivered to Agent to Cash Collateralize any Obligations.

Cash Collateral Account: a demand deposit, money market or other account established by Agent at such financial institution as Agent may select in its discretion, which account shall be subject to Agent's Liens for the benefit of Secured Parties.

Cash Collateralize: the delivery of cash to Agent, as security for the payment of Obligations, in an amount equal to (a) with respect to LC Obligations, 105% of the aggregate LC Obligations, and (b) with respect to any inchoate, contingent or other Obligations (including Obligations arising under Bank Products), Agent's good faith estimate of the amount due or to become due, including all fees and other amounts relating to such Obligations. "Cash Collateralization" has a correlative meaning.

Cash Equivalents: (a) securities issued or directly and fully guaranteed or insured by (i) the United States government or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof), or (ii) any member of the European Economic Area or Switzerland, or any agency or instrumentality thereof (provided that such country, agency or instrumentality has a credit rating at least equal to that of the United States and the full faith and credit of such country is pledged in support thereof), in each case, with such securities having maturities of not more than thirteen months from the date of acquisition; (b) marketable general obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within thirteen months from the date of acquisition thereof (provided that the full faith and credit of such state is pledged in support thereof) and, at the time of acquisition thereof, having credit ratings of at least AA- (or the equivalent) by S&P and at least Aa3 (or the

equivalent) by Moody's; (c) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits or bankers' acceptances having maturities of not more than thirteen months from the date of acquisition thereof issued by any commercial bank organized in the United States of America, Canada, Japan or Switzerland or any member of the European Economic Area, in each case, of recognized standing and having combined capital and surplus in excess of \$500,000,000 (or the foreign currency equivalent thereof); (d) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (a), (b) and (c) entered into with any bank meeting the qualifications specified in clause (c) above; (e) commercial paper having a rating at the time of acquisition thereof of at least A-1 from S&P or at least P-1 from Moody's or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of investments, and in any case maturing within thirteen months after the date of acquisition thereof; (f) interests in any investment company or money market fund substantially all of the assets of which are of the type specified in clauses (a) through (e) above; (g) corporate obligations with long term ratings of A or better from S&P or Moody's, with such obligations having maturities of not more than thirteen months from the date of acquisition; and (h) asset backed securities rated AAA or better by S&P or Moody's, with such securities having maturities of not more than thirteen months from the date of acquisition.

Cash Management Services : any services provided from time to time by any Lender or any of its Affiliates to any Borrower or Subsidiary in connection with operating, collections, payroll, trust, or other depository or disbursement accounts, including automated clearinghouse, e-payable, electronic funds transfer, wire transfer, controlled disbursement, overdraft, depository, information reporting, lockbox and stop payment services.

CERCLA : the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. § 9601 et seq.).

Change in Law : the occurrence, after the date hereof, of (a) the adoption or taking effect of any law, rule, regulation or treaty; (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority; or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority.

Change of Control : at any time, (a) any Person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) (i) shall have acquired beneficial ownership of 35% or more on a fully diluted basis of the voting and/or economic interest in the Equity Interests of Sanmina or (ii) shall have obtained the power (whether or not exercised) to elect a majority of the members of the board of directors (or similar governing body) of Sanmina; (b) during any period of twelve (12) consecutive months, the majority of the seats (other than vacant seats) on the board of directors (or similar governing body) of Sanmina cease to be occupied by Persons who either (i) were members of the board of directors of Sanmina on the Closing Date or (ii) were nominated for election by the board of directors of Sanmina, a majority of whom were directors on the Closing Date or whose election or nomination for election was previously approved by a majority of such directors or directors elected in accordance with this clause (ii); (c) any "change of control" or similar event under and as defined in any documentation relating to any Material Indebtedness; or (d) Sanmina ceases to own and control,

beneficially and of record, directly or indirectly, all Equity Interests in all other Borrowers (except as a result of a transaction permitted by **Section 10.2.8(i)** involving the merger, amalgamation or consolidation of a Borrower with another Borrower).

**Claims** : all liabilities, obligations, losses, damages, penalties, judgments, proceedings, interest, costs and expenses of any kind (including remedial response costs, reasonable attorneys' fees and Extraordinary Expenses) at any time (including after Full Payment of the Obligations, resignation or replacement of Agent, or replacement of any Lender) incurred by or asserted against any Indemnitee in any way relating to (a) any Loans, Letters of Credit, Loan Documents, or the use thereof or transactions relating thereto, (b) any action taken or omitted to be taken by any Indemnitee in connection with any Loan Documents, (c) the existence or perfection of any Liens, or realization upon any Collateral, (d) exercise of any rights or remedies under any Loan Documents or Applicable Law, or (e) failure by any Obligor to perform or observe any terms of any Loan Document, in each case including all costs and expenses relating to any investigation, litigation, arbitration or other proceeding (including an Insolvency Proceeding or appellate proceedings), whether or not the applicable Indemnitee is a party thereto.

**Closing Date** : as defined in **Section 6.1** .

**Code** : the Internal Revenue Code of 1986.

**Collateral** : all Property described in **Section 7.1** , all Property described in any Security Documents as security for any Obligations, and all other Property that now or hereafter secures (or is intended to secure) any Obligations.

**Commitment** : for any Lender, its obligation to make loans pursuant to **Section 2.1** and to participate in LC Obligations up to the maximum principal amount shown on **Schedule 1.1(a)** , or as hereafter determined pursuant to each Assignment and Acceptance to which it is a party. "**Commitments**" means the aggregate amount of such commitments of all Lenders.

**Commitment Date** : as defined in **Section 2.3(b)** .

**Commitment Termination Date** : the earliest to occur of (a) the Revolver Termination Date; (b) the date on which Borrower Agent terminates the Commitments pursuant to **Section 2.1.4** ; or (c) the date on which the Commitments are terminated pursuant to **Section 11.2** .

**Compliance Certificate** : a certificate, in form and substance satisfactory to Agent, by which Borrower Agent certifies compliance with **Section 10.3** and calculates the applicable Level for the Applicable Margin.

**Consolidated Capital Expenditures** : for any period, the aggregate of all expenditures of Sanmina and its Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of Sanmina and its Subsidiaries.

Consolidated Tangible Foreign Assets : as of any date of determination, the sum of the amounts that would appear on a consolidated balance sheet of the Foreign Subsidiaries of Sanmina as the total assets of the Foreign Subsidiaries of Sanmina, minus the total intangible assets of the Foreign Subsidiaries of Sanmina.

Contingent Obligation : any obligation of a Person arising from a guaranty, suretyship, indemnity or other assurance of payment or performance of any Debt, lease, dividend or other obligation (“ primary obligations ”) of another obligor (“ primary obligor ”) in any manner, whether directly or indirectly, including any obligation of such Person under any (a) guaranty, endorsement (other than for collection or deposit in the ordinary course of business), co-making or sale with recourse of an obligation of a primary obligor; (b) obligation to make take-or-pay or similar payments regardless of nonperformance by any other party to an agreement; and (c) arrangement (i) to purchase any primary obligation or security therefor, (ii) to supply funds for the purchase or payment of any primary obligation, (iii) to maintain or assure working capital, equity capital, net worth or solvency of the primary obligor, (iv) to purchase Property or services for the purpose of assuring the ability of the primary obligor to perform a primary obligation, or (v) otherwise to assure or hold harmless the holder of any primary obligation against loss in respect thereof. The amount of any Contingent Obligation shall be deemed to be the stated or determinable amount of the primary obligation (or, if less, the maximum amount for which such Person may be liable under the instrument evidencing the Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability with respect thereto.

Contributing Guarantors : as defined in **Section 14.2** .

Convertible Indebtedness : Debt convertible into Equity Interest of Sanmina or any of its Subsidiaries at the option of the holder thereof.

Corporate Head Office Campus : Sanmina’s head office campus located at 2700 North First Street, 2701 Zanker Road, 60 East Plumeria Drive and 30 East Plumeria Drive, San Jose, California 95134.

Credit Judgment : Agent’s reasonable credit judgment exercised in good faith, based upon its consideration of any factor that it believes (a) could reasonably be expected to adversely affect the quantity, quality, mix or value of Collateral (including any Applicable Law that may inhibit collection of an Account), the enforceability or priority of Agent’s Liens, or the amount that Agent and Lenders could receive in liquidation of any Collateral; (b) suggests that any collateral report or financial information delivered by any Obligor is incomplete, inaccurate or misleading in any material respect; (c) materially increases the likelihood of any Insolvency Proceeding involving an Obligor; or (d) creates or could reasonably be expected to result in a Default or Event of Default. In exercising such judgment, Agent may consider any factors that could reasonably be expected to increase the credit risk of lending to Borrowers on the security of the Collateral, including any facts arising in any Collateral review done from time to time.

CWA : the Clean Water Act (33 U.S.C. §§ 1251 et seq.).

Debt : as applied to any Person, without duplication, (a) all items that would be included as liabilities on a balance sheet in accordance with GAAP, including Capital Leases, but

excluding accounts payables incurred and being paid in the Ordinary Course of Business; (b) all Contingent Obligations where the primary obligation associated therewith would constitute Debt under this definition; (c) all reimbursement obligations in connection with letters of credit issued for the account of such Person; and (d) in the case of a Borrower, the Obligations. The Debt of a Person shall include any recourse Debt of any partnership in which such Person is a general partner or joint venturer.

Default : an event or condition that, with the lapse of time or giving of notice, would constitute an Event of Default.

Default Rate : for any Obligation (including, to the extent permitted by law, interest not paid when due), 2% plus the interest rate otherwise applicable thereto.

Defaulting Agent : an Agent with respect to which any one or more of the following has occurred: (a) Agent has failed to meet any of its funding or settlement obligations pursuant to this Agreement, and such failure has continued for at least five consecutive Business Days; or (b) Agent is under receivership by the applicable state or federal regulatory authority.

Defaulting Lender : any Lender that (a) fails to make any payment or provide funds to Agent or any Borrower as required hereunder or fails otherwise to perform its obligations under any Loan Document, and such failure is not cured within one Business Day, or (b) is the subject of any Insolvency Proceeding.

Deposit Account Control Agreements : the Deposit Account control agreements to be executed by each institution maintaining a Deposit Account for a Borrower or a Designated Canadian Guarantor, in favor of Agent, for the benefit of Secured Parties, as security for the Obligations.

Designated Canadian Guarantor : any Canadian Subsidiary of Sanmina which is a Guarantor, whose assets are included in the Borrowing Base and which is listed on **Schedule 1.1(b)** hereto as a Designated Canadian Guarantor, as such Schedule is amended from time to time by notice from Borrower Agent to Agent.

Dilution Percent : the percent, determined for Borrowers' most recent Fiscal Quarter, equal to (a) bad debt write-downs or write-offs, discounts, returns, promotions, credits, credit memos and other dilutive items with respect to Accounts of the Obligors, divided by (b) gross sales of the Obligors.

Dilution Reserve : a reserve against the Accounts Formula Amount in an amount equal to 1% for each whole percentage (or portion thereof) that the Dilution Percent exceeds 5%.

Disclosure Letter : the disclosure letter of Borrowers to Agent and the Lenders with respect to this Agreement, dated the Closing Date.

Distribution : any declaration or payment of a distribution, interest or dividend on any Equity Interest (other than payment-in-kind, including a dividend payable solely in shares of stock or the distribution of non-cash rights in connection with any stockholder rights plan); or any purchase, redemption, or other acquisition or retirement for value of any Equity Interest.

Dollar Equivalent : of any amount means, at the time of determination thereof, (a) if such amount is expressed in Dollars, such amount, (b) if such amount is expressed in Canadian Dollars or any other currency (other than Dollars), the equivalent of such amount in Dollars determined by using the mid-range rate of exchange quoted by the Wall Street Journal for Dollars or such alternative currency, as applicable, under its “Exchange Rates” column on the Business Day preceding the date of determination and (c) if such amount is denominated in any other currency, the equivalent of such amount in Dollars as determined by Agent using any method of determination it reasonably deems appropriate; provided, however, if such amount is expressed in an alternative currency (other than Dollars) and such amount relates to the issuance of a Letter of Credit by any Issuing Bank, the “Dollar Equivalent” shall mean the equivalent of such amount in Dollars as determined by such Issuing Bank using any customary method of determination it reasonably deems appropriate.

Dollars : lawful money of the United States of America.

Domestic Subsidiary : any Subsidiary organized under the laws of the United States of America, any State thereof or the District of Columbia.

Dominion Account : a special account established by Borrowers and Designated Canadian Guarantors at Bank of America, its Affiliates or branches or another bank acceptable to Agent, over which Agent has exclusive control for withdrawal purposes, including each Lockbox Cash Collateral Account as provided in **Section 8.2.4** .

EBITDA : for any period, an amount determined for Sanmina and its Subsidiaries on a consolidated basis in accordance with GAAP equal to the amount equal to the sum of the following: (a) Net Income; plus (b) to the extent deducted in the calculation of Net Income: (i) Taxes, whether paid or deferred, (ii) Net Interest Expense, (iii) amortization, (iv) depreciation, (v) other non-cash charges for such period including, without limitation, goodwill, restructuring charges, non-cash charges arising from the 2008/2009 Corporate Reorganizations, non-cash charges arising from the accelerated recognition of pension expenses previously deferred under FAS 87/88, cumulative translation adjustments arising from the liquidation of Subsidiaries, financing costs and expenses, fixed asset and other intangibles impairment; provided that any cash payments made in any future period in respect of such charges shall be subtracted from EBITDA in the period when such payments are made and (vi) any non-cash charges associated with the recognition of fair value of stock options and other equity-based compensation issued to employees which have been expensed in Sanmina’s statement of operations for such period; minus (c) pension related payments or contributions for such period in excess of the related charges or expenses reflected on the income statement for such period.

Eligible Account : an Account owing to a Borrower or a Designated Canadian Guarantor that arises in the Ordinary Course of Business consistent with past practices from the sale of goods or rendition of services, is payable in Dollars and is deemed by Agent, in its Credit Judgment, to be an Eligible Account; provided that Agent shall not establish any criteria for excluding Accounts from Eligible Accounts other than those set forth below unless Agent shall have given Borrower Agent at least three Business Days prior notice of Agent’s intention to establish such criteria (including an explanation as to the reasons that Agent has determined in its Credit Judgment that such criteria are appropriate). Without limiting the foregoing, no Account

shall be an Eligible Account if (a) it is unpaid for more than 60 days after the original due date, or more than 90 days after the original invoice date; (b) 50% or more of the Accounts owing by the Account Debtor are not Eligible Accounts under the foregoing clause; (c) when aggregated with other Accounts owing by the Account Debtor, it exceeds 15% of the aggregate Eligible Accounts (or such higher percentage as Agent may establish for the Account Debtor from time to time); (d) it does not conform with a covenant or representation herein; (e) it is owing by a creditor or supplier, or is otherwise subject to a potential offset, counterclaim, dispute, deduction, discount, recoupment, reserve, defense, chargeback, credit or allowance (but ineligibility shall be limited to the amount thereof); (f) an Insolvency Proceeding has been commenced by or against the Account Debtor (or, to the best of such Borrower or Designated Canadian Guarantor's knowledge, the Controlling Affiliate thereof); or the Account Debtor (or, to the best of such Borrower or Designated Canadian Guarantor's knowledge, such Controlling Affiliate) has failed, has suspended or ceased doing business, is liquidating, dissolving or winding up its affairs, or is not Solvent; or the Borrower is not able to bring suit or enforce remedies against the Account Debtor through judicial process; (g) the Account Debtor is organized or has its principal offices or assets outside the United States of America or Canada except to the extent such account is secured or payable by a letter of credit in form and substance satisfactory to Agent; (h) it is owing by a Government Authority, unless the Account Debtor is the United States or any department, agency or instrumentality thereof and the Account has been assigned to Agent in compliance with the Assignment of Claims Act; (i) it is not subject to a duly perfected, first priority Lien in favor of Agent, or is subject to any other Lien other than a Permitted Lien referred to in **Section 10.2.2(a), (c), (d), (g) and Section 10.2.1(s)**; (j) the goods giving rise to it have not been delivered to and accepted by the Account Debtor, the services giving rise to it have not been accepted by the Account Debtor, or it otherwise does not represent a final sale; (k) it is evidenced by Chattel Paper or an Instrument of any kind, or has been reduced to judgment; (l) its payment has been extended, the Account Debtor has made a partial payment, or it arises from a sale on a cash-on-delivery basis; (m) it arises from a sale to an Affiliate, from a sale on a bill-and-hold, guaranteed sale, sale-or-return, sale-on-approval, consignment, or other repurchase or return basis, or from a sale to a Person for personal, family or household purposes; (n) it represents an inventory price adjustment, a purchase price variance pass-through, a progress billing, a prepayment, an accrual, a deposit, a refund, an invoice with terms in excess of 90 days, a residual invoice, a short payment, unearned revenue or retainage; (o) it includes a billing for interest, fees or late charges, but ineligibility shall be limited to the extent thereof; or (p) it arises from a sale to an Account Debtor listed on Schedule 1.1 to the Disclosure Letter, as such Schedule may be amended from time to time as contemplated by the definition of "Receivables Purchase Facility".

**Eligible Assignee** : a Person that is (a) a Lender, U.S.-based Affiliate of a Lender or Approved Fund; (b) any other financial institution approved by Agent and Borrower Agent (which approval by Borrower Agent shall not be unreasonably withheld or delayed, and shall be deemed given if no objection is made within three Business Days after notice of the proposed assignment), that is organized under the laws of the United States or any state or district thereof, has total assets in excess of \$5 billion, extends asset-based lending facilities in its ordinary course of business and whose becoming an assignee would not constitute a prohibited transaction under Section 4975 of the Code or any other Applicable Law; and (c) during any Event of Default, any Person acceptable to Agent in its discretion other than an Obligor, or an Affiliate or Senior Officer of an Obligor.

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**Eligible Foreign Account** : an Account from a Foreign Account Debtor that meets the criteria of an "Eligible Account" (other than clause (g) thereof) and is otherwise acceptable to Agent.

**Eligible Inventory** : Inventory owned by a Borrower or by a Designated Canadian Guarantor that Agent, in its Credit Judgment, deems to be Eligible Inventory; provided that Agent shall not establish any criteria for excluding Inventory from Eligible Inventory other than those set forth below unless Agent shall have given Borrower Agent at least three Business Days prior notice of Agent's intention to establish such criteria (including an explanation as to the reasons that Agent has determined in its Credit Judgment that such criteria are appropriate). Without limiting the foregoing, no Inventory shall be Eligible Inventory unless it (a) is finished goods or raw materials, and not work-in-process, packaging or shipping materials, labels, samples, display items, bags, replacement parts or manufacturing supplies; (b) is not held on consignment, nor subject to any deposit or downpayment; (c) is in new and saleable condition and is not damaged, defective, shopworn or otherwise unfit for sale; (d) is not slow-moving, obsolete or unmerchantable, and does not constitute returned or repossessed goods, it being understood that: (x) the Borrowers and any Designated Canadian Guarantor's general ledger "Obsolete and Excess Reserves" shall be deemed to be ineligible; and (y) all inventory in excess of the related customer-provided 90-day forecast that is not included in the foregoing clause (d)(x) or any other borrowing base ineligible category shall be deemed ineligible; (e) meets all standards imposed by any Governmental Authority, and does not constitute hazardous materials under any applicable Environmental Law (excluding, however, electronic products and components which contain hazardous materials but which are still in compliance in all material respects with Applicable Law); (f) conforms with the covenants and representations herein; (g) is subject to Agent's duly perfected, first priority Lien, and no other Lien other than a Permitted Lien referred to in **Section 10.2.2(a), (c), (d), (f), (g), (m), (v) and Section 10.2.1(s)**; (h) is within the continental United States or Canada, is not in transit except between locations of Borrowers and Designated Canadian Guarantors, and is not consigned to any Person; (i) is not subject to any warehouse receipt or negotiable Document; (j) is not subject to any License or other arrangement that restricts such Borrower's, Designated Canadian Guarantor's or Agent's right to dispose of such Inventory, unless Agent has received an appropriate Lien Waiver; (k) is not located on leased premises or in the possession of a warehouseman, processor, repairman, mechanic, shipper, freight forwarder or other Person, unless the lessor or such Person has delivered a Lien Waiver or an appropriate Rent and Charges Reserve has been established; and (l) is reflected in the details of a current perpetual inventory report.

**Enforcement Action** : any action to enforce any Obligations or Loan Documents or to realize upon any Collateral (whether by judicial action, self-help, notification of Account Debtors, exercise of setoff or recoupment, or otherwise).

**Environmental Laws** : all Applicable Laws (including all programs, permits and guidance promulgated by regulatory agencies having the force of law), relating to the protection or pollution of the environment or exposure of any individual to hazardous materials, including CERCLA, RCRA and CWA.

Environmental Notice : a notice (whether written or oral) from any Governmental Authority or other Person of any possible noncompliance with, investigation of a possible



violation of, litigation relating to, or potential fine or liability under any Environmental Law, or with respect to any Environmental Release, a notice of environmental pollution or hazardous materials, including any complaint, summons, citation, order, claim, demand or request for correction, remediation or otherwise.

Environmental Release : a “release” as defined in CERCLA or under any other applicable Environmental Law.

Equity Interest : the interest of any (a) shareholder in a corporation; (b) partner in a partnership (whether general, limited, limited liability, unlimited liability or joint venture); (c) member in a limited liability or unlimited liability company; or (d) any other Person having any other form of equity security or ownership, but excluding any debt security or debt instrument convertible into or exchangeable for any equity security or ownership interest.

ERISA : the Employee Retirement Income Security Act of 1974.

ERISA Affiliate : any trade or business (whether or not incorporated) under common control with an Obligor within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

ERISA Event : (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Obligor or ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Obligor or ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) any Obligor or ERISA Affiliate fails to meet any funding obligations with respect to any Pension Plan or Multiemployer Plan, or requests a minimum funding waiver; (f) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (g) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Obligor or ERISA Affiliate.

Event of Default : as defined in **Section 11** .

Excess Availability : the positive amount by which (a) the sum of the Accounts Formula Amount plus the Inventory Formula Amount exceeds (b) the aggregate amount of the Commitments minus the LC Reserve.

Exchange Act : the Securities Exchange Act of 1934, as amended from time to time, and any successor statute.

Excluded Tax : with respect to Agent, any Lender, Issuing Bank or any other recipient of a payment to be made by or on account of any Obligation, (a) Taxes imposed on or measured by

its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located, or in the case of any Lender, in which its applicable Lending Office is located or with which it has a present or former connection (other than any such connection arising from having executed, delivered or performed its obligations or received payment under, or enforced any Loan Document); (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which any Borrower is located; (c) any backup withholding tax required by the Code to be withheld from amounts payable to a Lender that has failed to comply with **Section 5.9** ; and (d) in the case of a Foreign Lender, any withholding tax that is (i) required pursuant to laws in force at the time such Lender becomes a Lender (or designates a new Lending Office) hereunder, or (ii) attributable to such Lender's failure or inability (other than as a result of a change in law after the date such Lender becomes a Lender) to comply with **Section 5.9** , except in either case to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Obligors with respect to such withholding tax.

Existing Letter of Credit : the letters of credit referred to on **Schedule 2.2.4** .

Extraordinary Expenses : all costs, expenses or advances that Agent or any Lender may incur during a Default or Event of Default, or during the pendency of an Insolvency Proceeding of an Obligor, including those relating to (a) any audit, inspection, repossession, storage, repair, appraisal, insurance, manufacture, preparation or advertising for sale, sale, collection, or other preservation of or realization upon any Collateral; (b) any action, arbitration or other proceeding (whether instituted by or against Agent, any Lender, any Obligor, any representative of creditors of an Obligor or any other Person) in any way relating to any Collateral (including the validity, perfection, priority or avoidability of Agent's Liens with respect to any Collateral), Loan Documents, Letters of Credit or Obligations, including any lender liability or other Claims; (c) the exercise, protection or enforcement of any rights or remedies of Agent in, or the monitoring of, any Insolvency Proceeding; (d) settlement or satisfaction of any taxes, charges or Liens with respect to any Collateral; (e) any Enforcement Action; (f) negotiation and documentation of any modification, waiver, workout, restructuring or forbearance with respect to any Loan Documents or Obligations; and (g) Protective Advances. Such costs, expenses and advances include transfer fees, Other Taxes, storage fees, insurance costs, permit fees, utility reservation and standby fees, legal fees, appraisal fees, brokers' fees and commissions, auctioneers' fees and commissions, accountants' fees, wages and salaries paid to employees of any Obligor or independent contractors in liquidating any Collateral, and travel expenses.

Fair Share : as defined in **Section 14.2** .

Fair Share Contribution Amount : as defined in **Section 14.2** .

Fair Share Shortfall : as defined in **Section 14.2** .

Fee Letter : the fee letter agreement, dated November 19, 2008, among Agent, the Lead Arrangers and Borrower Agent.

First Tier Foreign Subsidiary : at any date of determination, a Foreign Subsidiary in which Sanmina or any Domestic Subsidiary (or any combination thereof) owns directly more than 50%, in the aggregate, of the Equity Interests of such Subsidiary.

Fiscal Month : a fiscal month of any Fiscal Quarter.

Fiscal Quarter : a fiscal quarter of any Fiscal Year.

Fiscal Year : the fiscal year of Borrowers and Subsidiaries for accounting and tax purposes, ending on the Saturday nearest September 30 of each year.

Fixed Charge Coverage Ratio : the ratio, determined on a consolidated basis for Sanmina and its Subsidiaries for the most recent four Fiscal Quarters then ended, of (a) EBITDA minus Consolidated Capital Expenditures (except those financed with Borrowed Money other than Loans), to (b) Fixed Charges.

Fixed Charges : the sum of interest expense paid (other than payment-in-kind), scheduled principal payments made on Borrowed Money, Distributions made (excluding any Distributions made: (i) by any Borrower to any other Borrower or (ii) by any Subsidiary to any Borrower or to any other Subsidiary, but, for the avoidance of doubt, including that portion of any Distribution which is not paid to any Subsidiary or Borrower) and cash Taxes paid, net of cash refunds received; provided, that for purposes of the calculation of the Fixed Charge Coverage Ratio, the sum of such Taxes paid net of cash refunds received shall not be less than zero.

FLSA : the Fair Labor Standards Act of 1938.

Foreign Account Debtors : an Account Debtor that is organized or has its principal offices or assets outside the United States of America or Canada and whose corporate credit rating is not less than BB- and Ba3 from S&P and Moody's, respectively, or, if applicable, the corporate credit rating of its controlling Affiliate is not less than BB- and Ba3 from S&P and Moody's, respectively.

Foreign Lender : any Lender that is organized under the laws of a jurisdiction other than the laws of the United States of America, or any state or district thereof.

Foreign Plan : any employee benefit plan or arrangement (a) maintained or contributed to by any Obligor or Subsidiary that is not subject to the laws of the United States of America; or (b) mandated by a government other than the United States for employees of any Obligor or Subsidiary, other than a Canadian Plan.

Foreign Securitization Facilities : a non-recourse (other than limited, customary provisions for recourse) securitization facility pursuant to which a non-Obligor Subsidiary of Sanmina sells, assigns, conveys, contributes to capital or otherwise transfers its receivables (including notes, chattel paper, accounts, instruments and general intangibles consisting of rights to payment), together with any Related Assets, to a Securitization Subsidiary.

Foreign Subsidiary : a Subsidiary (excluding any Designated Canadian Guarantor) that is a "controlled foreign corporation" under Section 957 of the Code.

**FSCO** : the Financial Services Commission of Ontario and any Person succeeding to the functions thereof and includes the Superintendent under such statute and any other Governmental Authority empowered or created by the *Supplemental Pension Plans Act* (Québec) or the *Pension Benefits Act* (Ontario) or any Governmental Authority of any other Canadian jurisdiction exercising similar functions in respect of any Canadian Plan of the Borrower or any of its Subsidiaries or Affiliates and any Governmental Authority succeeding to the functions thereof.

**Full Payment** : with respect to any Obligations, (a) the full and indefeasible cash payment thereof, including any interest, fees and other charges accruing during an Insolvency Proceeding (whether or not allowed in the proceeding); (b) if such Obligations are LC Obligations, Cash Collateralization thereof (or delivery of a standby letter of credit acceptable to Agent in its discretion, in the amount of required Cash Collateral); (c) a release of any Claims of Obligors against Agent, Lenders and Issuing Bank arising on or before the payment date; (d) adequate provision (as determined by Agent in its reasonable judgment) having been made for the repayment of all Obligations inchoate or contingent in nature related to the provisional application of collections to the Loan Account, including the amount of any automated clearinghouse transfers and the full face amount of any check or other instrument that may be dishonored or returned or that remain unpaid for any reason, plus any bank charges and all other reasonable costs that may be incurred by Agent or any Lender or that may otherwise arise as a result of any such dishonor or return; and (e) adequate provision (as determined by Agent in its reasonable judgment) having been made for any claims against any Indemnitee that have been asserted or threatened in writing or that can otherwise reasonably be identified by Agent based on the then-known facts and circumstances. No Loans shall be deemed to have been paid in full until all Commitments related to such Loans have expired or been terminated.

**Funding Guarantor** : as defined in **Section 14.2** .

**GAAP** : generally accepted accounting principles in effect in the United States from time to time.

**Governmental Approvals** : all authorizations, consents, approvals, licenses and exemptions of, registrations and filings with, and required reports to, all Governmental Authorities.

**Governmental Authority** : any federal, state, provincial, territorial, municipal, foreign or other governmental department, agency, commission, board, bureau, court, tribunal, instrumentality, political subdivision, or other entity or officer exercising executive, legislative, judicial, regulatory or administrative functions for or pertaining to any government or court, in each case whether associated with the United States, a state, district or territory thereof, Canada, or a province or territory thereof, or any other foreign entity or government.

**Guaranteed Obligations** : as defined in **Section 14.1** .

**Guarantor Payment** : as defined in **Section 5.10.3** .

**Guarantors** : each existing and future direct and indirect wholly-owned Domestic Subsidiary and each Designated Canadian Guarantor, except (i) Sanmina-SCI Netherlands

Holdings LLC, (ii) any Domestic Subsidiary owned by a Foreign Subsidiary and (iii) any Securitization Subsidiary.

Guaranty : each guaranty executed by a Guarantor in favor of Agent, including the Guaranty set forth in **Section 14** .

Hedging Agreement : an agreement relating to any swap, cap, floor, collar, option, forward, cross right or obligation, or combination thereof or similar transaction, with respect to interest rate, foreign exchange, currency, commodity, credit or equity risk.

Increasing Lender : as defined in **Section 2.3(b)** .

Indemnified Taxes : Taxes other than Excluded Taxes.

Indemnitees : Agent Indemnitees, Lender Indemnitees, Issuing Bank Indemnitees and Bank of America Indemnitees.

Indentures : the Senior Subordinated Indentures and the Senior Indentures.

Insignificant Subsidiary : (a) with respect to **Section 10.1.9** , a Subsidiary that has assets with a book value not in excess of \$5,000,000; and (b) with respect to **Section 11.1(j)** , a Foreign Subsidiary that has assets with a book value not in excess of \$10,000,000.

Insolvency Proceeding : any case or proceeding commenced by or against a Person under any state, provincial, territorial, federal or foreign law for, or any agreement of such Person to, (a) the entry of an order for relief under the Bankruptcy Code, or the commencement of any proceeding under the Bankruptcy and Insolvency Act (Canada) or the Companies' Creditors Arrangement Act (Canada) or any other insolvency, debtor relief or debt adjustment law; (b) the appointment of a receiver, interim receiver, receiver-manager, monitor, trustee, liquidator, administrator, conservator or other custodian for such Person or any part of its Property under any bankruptcy or insolvency law; or (c) an assignment or trust mortgage for the benefit of creditors under any bankruptcy or insolvency law.

Intellectual Property : all intellectual and similar Property of a Person, including inventions, designs, patents, copyrights, trademarks, service marks, trade names, trade secrets, confidential or proprietary information, customer lists, know-how, software and databases; all embodiments or fixations thereof and all related documentation, applications, registrations and franchises; all licenses or other rights to use any of the foregoing; and all books and records relating to the foregoing.

Intellectual Property Claim : any claim or assertion (whether in writing, by suit or otherwise) that a Borrower's or Subsidiary's ownership, use, marketing, sale or distribution of any Inventory, Equipment, Intellectual Property or other Property violates another Person's Intellectual Property.

Interco Subordination Agreement : the Interco Subordination Agreement dated as of the date hereof among the Obligors, each Subsidiary that may from time to time become a payee on

any Intercompany Debt owed by an Obligor, Agent, and the other parties thereto, as it may be amended, supplemented or otherwise modified from time to time.

Intercompany Debt : Debt (whether or not evidenced by a writing) of Sanmina or any of its Subsidiaries payable to, as applicable, Sanmina or any of its Subsidiaries.

Interest Expense : for any period, total interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) of Sanmina and its Subsidiaries on a consolidated basis with respect to all outstanding Debt of Sanmina and its Subsidiaries, including all commissions, discounts and other fees, charges owed with respect to letters of credit and net costs under Interest Rate Agreements.

Interest Period : as defined in **Section 3.1.3** .

Interest Rate Agreement : any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedging agreement or other similar agreement or arrangement, each of which is for the purpose of managing the interest rate exposure or interest rate risk associated with Sanmina's and its Subsidiaries' operations and not for speculative purposes.

Inventory : as defined in the UCC, including all goods intended for sale, lease, display or demonstration; all work in process; and all raw materials, and other materials and supplies of any kind that are or could be used in connection with the manufacture, printing, packing, shipping, advertising, sale, lease or furnishing of such goods, or otherwise used or consumed in the business of a Borrower or Designated Canadian Guarantor, respectively (but excluding Equipment).

Inventory Formula Amount : the lesser of (I) the sum of (a) the lesser of (i) up to 35% of the Value of raw materials Eligible Inventory of the Borrowers and the Designated Canadian Guarantors and (ii) up to 85% of the NOLV Percentage of the Value of such raw materials Eligible Inventory and (b) the lesser of (i) up to 35% of the Value of finished goods Eligible Inventory of the Borrowers and the Designated Canadian Guarantors and (ii) up to 85% of the NOLV Percentage of the Value of such finished goods Eligible Inventory and (II) 20% of the aggregate Commitments.

Inventory Reserve : reserves established by Agent to reflect factors that may negatively impact the Value of Inventory, including change in salability, obsolescence, seasonality, theft, shrinkage, imbalance, change in composition or mix, markdowns, warranty and vendor chargebacks.

Investment : any acquisition of all or substantially all assets of a Person; any acquisition of record or beneficial ownership of any Equity Interests of a Person; or any advance or capital contribution to or other investment in a Person. For purposes of calculation, the amount of any Investment outstanding at any time shall be the aggregate amount of such Investment less all cash dividends and cash distributions received by such Person thereon (or in the case of noncash dividends and distributions received by such Person, the amount of cash received in respect thereof when and if converted into cash).

IRS: the United States Internal Revenue Service.

Issuing Bank: Deutsche Bank Trust Company Americas, as an issuing bank of one or more Existing Letters of Credit, and Bank of America or an Affiliate or branch of Bank of America.

Issuing Bank Indemnities: Issuing Bank and its officers, directors, employees, Affiliates, branches, agents and attorneys.

LC Application: an application by Borrower Agent to Issuing Bank for issuance of a Letter of Credit, in form and substance satisfactory to Issuing Bank.

LC Conditions: the following conditions necessary for issuance of a Letter of Credit: (a) each of the conditions set forth in **Section 6**; (b) after giving effect to such issuance, total LC Obligations do not exceed the Letter of Credit Subline, no Overadvance exists and, if no Loans are outstanding, the LC Obligations do not exceed the Borrowing Base (without giving effect to the LC Reserve for purposes of this calculation); (c) the expiration date of such Letter of Credit is (i) no more than 365 days from issuance, in the case of standby Letters of Credit, (ii) no more than 120 days from issuance, in the case of documentary Letters of Credit, and (iii) at least 20 Business Days prior to the Fifth Anniversary of the Closing Date; (d) the Letter of Credit and payments thereunder are denominated in Dollars; and (e) the form of the proposed Letter of Credit is satisfactory to Agent and Issuing Bank in their discretion.

LC Documents: all documents, instruments and agreements (including LC Requests and LC Applications) delivered by Borrowers or any other Person to Issuing Bank or Agent in connection with issuance, amendment or renewal of, or payment under, any Letter of Credit.

LC Obligations: the sum (without duplication) of (a) all amounts owing by Borrowers for any drawings under Letters of Credit; (b) the stated amount of all outstanding Letters of Credit; and (c) all fees and other amounts owing with respect to Letters of Credit.

LC Request: a request for issuance of a Letter of Credit, to be provided by Borrower Agent to Issuing Bank, in form satisfactory to Agent and Issuing Bank.

LC Reserve: the aggregate of all LC Obligations, other than (a) those that have been Cash Collateralized; and (b) if no Default or Event of Default exists, those constituting charges owing to the Issuing Bank.

Lead Arrangers: Banc of America Securities LLC and Deutsche Bank Securities Inc.

Lender Counterparty: each Lender or any Affiliate of a Lender counterparty to a Hedging Agreement (including any Person who is a Lender as of the Closing Date but subsequently, whether before or after entering into a Hedging Agreement, ceases to be a Lender).

Lender Indemnities: Lenders and their officers, directors, employees, Affiliates, branches, agents and attorneys.

Lenders: as defined in the preamble to this Agreement, including Agent in its capacity as a provider of Swingline Loans and any other Person who hereafter becomes a "Lender" pursuant to an Assignment and Acceptance or an Assumption Agreement.

Lending Office: the office designated as such by the applicable Lender at the time it becomes party to this Agreement or thereafter by notice to Agent and Borrower Agent.

Letter of Credit: any standby or documentary letter of credit issued by Issuing Bank for the account of a Borrower, or any indemnity, guarantee, exposure transmittal memorandum or similar form of credit support issued by Agent or Issuing Bank for the benefit of a Borrower and shall include the existing Letters of Credit.

Letter of Credit Subline: \$50,000,000; provided, that if the aggregate amount of the Commitments is greater than \$250,000,000, "Letter of Credit Subline" shall mean \$100,000,000.

LIBOR: for any Interest Period with respect to a LIBOR Loan, the per annum rate of interest (rounded upward, if necessary, to the nearest 1/100th of 1%), determined by Agent at approximately 11:00 a.m. (London time) two Business Days prior to commencement of such Interest Period, for a term comparable to such Interest Period, equal to (a) the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Reuters (or other commercially available source designated by Agent); or (b) if BBA LIBOR is not available for any reason, the interest rate at which Dollar deposits in the approximate amount of the LIBOR Loan would be offered by Bank of America's London branch to major banks in the London interbank Eurodollar market. If the Board of Governors imposes a Reserve Percentage with respect to LIBOR deposits, then LIBOR shall be the foregoing rate, divided by 1 minus the Reserve Percentage.

LIBOR Loan: a Loan that bears interest based on LIBOR.

License: any license or agreement under which an Obligor is authorized to use Intellectual Property in connection with any manufacture, marketing, distribution or disposition of Collateral, any use of Property or any other conduct of its business.

Licensor: any Person from whom an Obligor obtains the right to use any Intellectual Property.

Lien: any Person's interest in Property securing an obligation owed to, or a claim by, such Person, whether such interest is based on common law, statute or contract, including liens, security interests, pledges, hypothecations, statutory trusts, reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, conditional sales, restrictions, leases, leaseings, and other title exceptions and encumbrances affecting Property.

Lien Waiver: an agreement, in form and substance reasonably satisfactory to Agent, by which (a) for any material Collateral located on leased premises, the lessor waives or subordinates any Lien it may have on the Collateral, and agrees to permit Agent to enter upon the premises and remove the Collateral or to use the premises to store or dispose of the Collateral; (b) for any Collateral held by a warehouseman, processor, shipper, customs broker or freight forwarder, such Person waives or subordinates any Lien it may have on the Collateral, agrees to hold any Documents in its possession relating to the Collateral as agent for Agent, and agrees to



deliver the Collateral to Agent upon request; (c) for any Collateral held by a repairman, mechanic or bailee, such Person acknowledges Agent's Lien, waives or subordinates any Lien it may have on the Collateral, and agrees to deliver the Collateral to Agent upon request; and (d) for any Collateral subject to a Licensor's Intellectual Property rights, the Licensor grants to Agent the right, vis-à-vis such Licensor, to enforce Agent's Liens with respect to the Collateral, including the right to dispose of it with the benefit of the Intellectual Property, whether or not a default exists under any applicable License.

Loan: a loan made pursuant to **Section 2.1**, and any Swingline Loan, Overadvance Loan or Protective Advance.

Loan Account: the loan account established by each Lender on its books pursuant to **Section 5.7**.

Loan Documents: this Agreement, Other Agreements and Security Documents.

Loan Year: each 12 month period commencing on the Closing Date and on each anniversary of the Closing Date.

Lockbox Cash Collateral Account: a Cash Collateral Account that has been designated a "lockbox account" by the Borrower Agent.

Margin Stock: as defined in Regulation U of the Board of Governors.

Material Adverse Effect: the effect of any event or circumstance that, taken alone or in conjunction with other events or circumstances, (a) has or could be reasonably expected to have a material adverse effect on the business, operations, Properties, liabilities (actual or contingent) or condition (financial or otherwise) of Borrowers and their Subsidiaries, taken as a whole, on the value of any material portion of Collateral, on the enforceability of any Loan Documents, or on the validity or priority of Agent's Liens on any Collateral; (b) materially impairs the ability of any Obligor to perform any of its obligations under the Loan Documents, including repayment of any Obligations; or (c) otherwise materially impairs the ability of Agent or any Lender to enforce or collect any Obligations or to realize upon any Collateral; provided that the effect on Sanmina's consolidated financial position or results of operations of the sale by Sanmina and its Subsidiaries of their personal computing and associated logistics services business shall not constitute a Material Adverse Effect.

Material Contract: any agreement or arrangement to which a Borrower or Subsidiary is party (other than the Loan Documents) (a) that is deemed to be a material contract under any securities law applicable to such Person, including the Securities Act of 1933; (b) for which breach, termination, nonperformance or failure to renew could reasonably be expected to have a Material Adverse Effect; or (c) that relates to Subordinated Debt or Borrowed Money having an outstanding principal amount of \$25,000,000 or more.

Material Indebtedness: any Borrowed Money (other than the Loans), or obligations in respect of one or more Hedging Agreements, of any Obligor evidencing an outstanding principal amount exceeding \$25,000,000. For purposes of determining Material Indebtedness, the "principal amount" of the obligations of such Obligor in respect of any Hedging Agreement at

any time shall be the maximum aggregate amount (giving effect to any netting agreements) that such Obligor would be required to pay if such Hedging Agreement were terminated at such time.

Moody's: Moody's Investors Service, Inc., and its successors.

Multiemployer Plan: any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which any Obligor or ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

Net Income: for any period, (i) the net income (or loss) of Sanmina and its Subsidiaries on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP, excluding (ii) (a) the income (or loss) of any Person (other than a Subsidiary of Sanmina) in which any other Person (other than Sanmina or any of its Subsidiaries) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to Sanmina or any of its Subsidiaries by such Person during such period, (b) the income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of Sanmina or is merged into or consolidated with Sanmina or any of its Subsidiaries or that Person's assets are acquired by Sanmina or any of its Subsidiaries, (c) the income of any Subsidiary of Sanmina to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary, (d) any after-tax gains or losses attributable to Asset Dispositions or returned surplus assets of any Pension Plan, and (e) (to the extent not included in clauses (a) through (d) above) any net extraordinary gains or net extraordinary losses, to the extent included in determining net income (or loss) for such period.

Net Interest Expense: for any period, Interest Expense for such period minus interest income included in Net Income for such period.

Net Proceeds: with respect to an Asset Disposition, proceeds (including, when received, any deferred or escrowed payments) received by a Borrower or Subsidiary in cash from such disposition, net of (a) reasonable and customary costs and expenses actually incurred in connection therewith, including legal fees and sales commissions; (b) amounts applied to repayment of Debt secured by a Permitted Lien senior to Agent's Liens on Collateral sold, including, without limitation, any premium, penalty, or make-whole amounts related thereto required to be paid as a result of such Asset Disposition; (c) Taxes paid or a good faith estimate of Taxes payable with respect to such proceeds, including, without limitation, any premium, penalty, or make-whole amounts related thereto required to be paid as a result of such Asset Disposition; and (d) reserves for indemnities or other reserves in accordance with GAAP against any liabilities associated with the assets sold, transferred, leased, licensed, consigned or disposed of in such Asset Disposition, including pension and other post-retirement benefit liabilities and liabilities related to environmental matters, until such reserves are no longer needed.

NOLV Percentage: the net orderly liquidation value of Inventory, expressed as a percentage, expected to be realized at an orderly, negotiated sale held within a reasonable period of time, net of all liquidation expenses, as determined from the most recent appraisal of the

Inventory of the Borrowers and the Designated Canadian Guarantors performed by an appraiser and on terms reasonably satisfactory to Agent.

Notes : each Revolver Note or other promissory note executed by a Borrower to evidence any Obligations.

Notice of Borrowing : a Notice of Borrowing to be provided by Borrower Agent to request a Borrowing of Loans, in form reasonably satisfactory to Agent.

Notice of Conversion/Continuation : a Notice of Conversion/Continuation to be provided by Borrower Agent to request a conversion or continuation of any Loans as LIBOR Loans, in form reasonably satisfactory to Agent.

Obligations : all (a) principal of and premium, if any, on the Loans, (b) LC Obligations and other obligations of Obligors with respect to Letters of Credit, (c) interest, expenses, fees and other sums payable by Obligors under Loan Documents, (d) obligations of Obligors under any indemnity for Claims, (e) Extraordinary Expenses, (f) Bank Product Debt, and (g) other Debts, obligations and liabilities of any kind owing by Obligors pursuant to the Loan Documents, whether now existing or hereafter arising, whether evidenced by a note or other writing, whether allowed in any Insolvency Proceeding, whether arising from an extension of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether direct or indirect, absolute or contingent, due or to become due, primary or secondary, or joint or several.

Obligee Guarantor : as defined in **Section 14.7** .

Obligor : each Borrower or Guarantor.

Ordinary Course of Business : the ordinary course of business of any Borrower or Subsidiary, in the exercise of its reasonable business judgment and undertaken in good faith.

Organic Documents : with respect to any Person, its charter, certificate or articles of incorporation, bylaws, articles of organization, limited liability agreement, operating agreement, members agreement, shareholders agreement, partnership agreement, certificate of partnership, certificate of formation, voting trust agreement, or similar agreement or instrument governing the formation or operation of such Person.

OSHA : the Occupational Safety and Hazard Act of 1970.

Other Agreement : each Note; LC Document; Fee Letter; Lien Waiver; Borrowing Base Certificate, Compliance Certificate, Perfection Certificate, financial statement or report delivered hereunder; the Disclosure Letter; or other document, instrument or agreement (other than this Agreement, a Security Document, any Hedging Agreement or any agreement related to Bank Products) now or hereafter entered into by an Obligor with Agent or a Lender in connection with any transactions relating hereto.

Other Taxes : all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made under any Loan

Document or from the execution, delivery or enforcement of, or otherwise with respect to, any Loan Document.

Overadvance : as defined in **Section 2.1.5** .

Overadvance Loan : a Base Rate Loan made when an Overadvance exists or is caused by the funding thereof.

Participant : as defined in **Section 13.2** .

Patriot Act : the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

Payment Item : each check, draft or other item of payment payable to a Borrower, including those constituting proceeds of any Collateral.

PBGC : the Pension Benefit Guaranty Corporation.

Pension Plan : any employee pension benefit plan (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Obligor or ERISA Affiliate or to which the Obligor or ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the preceding five plan years.

Perfection Certificate : the perfection certificate of Obligors with respect to this Agreement in form and substance satisfactory to Agent, dated the Closing Date, as the same shall be supplemented from time to time.

Permitted Acquisition : any acquisition by Sanmina or any of its wholly-owned Subsidiaries, whether by purchase, merger, amalgamation, or otherwise, of all or substantially all of the assets of, all of the Equity Interests of, or a business line or unit or a division of, any Person; provided,

- a. immediately prior to, and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom;
- b. all transactions in connection therewith shall be consummated, in all material respects, in accordance with all applicable laws and in conformity with all applicable Governmental Authorizations;
- c. in the case of the acquisition of Equity Interests in which all of the Equity Interests (except for any such Equity Interests in the nature of directors' qualifying shares required pursuant to applicable law) acquired or otherwise issued by such Person or any newly formed Subsidiary of Sanmina in connection with such acquisition shall be owned 100% by Sanmina or a Guarantor, Sanmina shall take, or cause to be taken, promptly

after the date such Person becomes a Subsidiary of Sanmina, to the extent applicable, each of the actions set forth in **Section 10.1.9** ;

d. in the case of an acquisition where the consideration payable is \$25,000,000 or more, Sanmina shall have delivered to Agent at least ten (10) Business Days (or such shorter period of time as may be agreed to by Agent) prior to such proposed acquisition, all relevant financial information with respect to such acquired assets or Equity Interests, including, without limitation, the aggregate consideration for such acquisition;

e. any Person or assets or division as acquired in accordance herewith shall constitute a Permitted Business; and

f. such acquisition shall not have been preceded by a tender offer that has not been approved by the board of directors of such Person.

Permitted Asset Disposition : as long as (i) no Default or Event of Default exists and (ii) during a Trigger Period, all Net Proceeds with respect to Collateral received by an Obligor are remitted to Agent, an Asset Disposition that is (a) a sale of Inventory in the Ordinary Course of Business consistent with past practices (including, without limitation, the sale of Inventory from Sanmina or any Subsidiary to Sanmina or any Subsidiary; (b) a disposition of Equipment; (c) a disposition of Inventory that is obsolete, unmerchantable or otherwise unsalable in the Ordinary Course of Business consistent with past practices; (d) termination of a lease of real or personal Property that is not necessary for the Ordinary Course of Business consistent with past practices, could not reasonably be expected to have a Material Adverse Effect and does not result from an Obligor's default; (e) approved in writing by Agent and Required Lenders; or (f) replacement of Equipment that is worn, damaged or obsolete with Equipment of like function and value, if the replacement Equipment is acquired substantially contemporaneously with such disposition and is free of Liens; provided that in all cases any involuntary loss resulting from a casualty event or condemnation shall constitute a Permitted Asset Disposition.

Permitted Business : any business that is related, ancillary or complementary to the businesses of Sanmina and its Subsidiaries on the Closing Date or any reasonable extension thereof.

Permitted Contingent Obligations : Contingent Obligations (a) arising from endorsements of Payment Items for collection or deposit in the Ordinary Course of Business consistent with past practices; (b) arising from Hedging Agreements permitted hereunder; (c) existing on the Closing Date, and any extension or renewal thereof that does not increase the amount of such Contingent Obligation when extended or renewed; (d) incurred in the Ordinary Course of Business consistent with past practices with respect to surety, appeal or performance bonds, or other similar obligations; (e) arising from customary indemnification obligations in favor of purchasers in connection with dispositions of Equipment permitted hereunder; (f) arising under the Loan Documents; or (g) in an aggregate amount of \$50,000,000 or less at any time.

Permitted Lien : as defined in **Section 10.2.2** .

Permitted Pool Transaction : the transfer of cash, whether directly or indirectly, through the repayment of or making of any Intercompany Debt, the making of any Upstream Payment or the making of Investments, from a Foreign Subsidiary to another Foreign Subsidiary in order to have the cash balances of such Foreign Subsidiaries repay or refund their obligations under the Citibank cash management pool, provided that in connection with any such transfer, (i) if any cash is proposed to be transferred from an Obligor to a Foreign Subsidiary, prior to, or simultaneously with, such proposed transfer, an equivalent amount of cash shall be transferred to such Obligor from a Foreign Subsidiary and (ii) if any cash is proposed to be transferred to an Obligor from a Foreign Subsidiary, prior to, or simultaneously with, such proposed transfer, an equivalent amount of cash shall be transferred from such Obligor to a Foreign Subsidiary.

Permitted Purchase Money Debt : Purchase Money Debt of Borrowers and Subsidiaries that is unsecured or secured only by a Purchase Money Lien, as long as the aggregate principal amount does not exceed \$75,000,000 at any time plus any amount permitted by and not utilized pursuant to **Section 10.2.1(i)** , but in no event shall the aggregate outstanding principal amount of Purchase Money Debt and Debt permitted under **Section 10.2.1(i)** exceed at any time \$150,000,000.

Person : any individual, corporation, limited liability company, unlimited liability company, partnership, joint venture, joint stock company, land trust, business trust, unincorporated organization, Governmental Authority or other entity.

Plan : any employee benefit plan (as such term is defined in Section 3(3) of ERISA) established by an Obligor or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, an ERISA Affiliate.

Pledged Securities : the Equity Interests in each of the Borrowers (other than Sanmina) and the Guarantors and other Equity Interests owned directly by the Borrowers and the Guarantors, provided in the case of any First Tier Foreign Subsidiary (other than any Designated Canadian Guarantor) and in the case of Sanmina-SCI Netherlands Holdings LLC not more than 65% of the voting Equity Interests thereof shall be “Pledged Securities” and provided, further, that Pledged Securities shall exclude (i) any Equity Interests in any Securitization Subsidiary, (ii) any Equity Interests in Sanmina-SCI Australia Holding Pty Ltd., and (iii) any other Equity Interests to the extent Agent determines in its reasonable discretion after consultation with Borrower Agent that such pledge is not commercially feasible.

PPSA : the Personal Property Security Act (Ontario) (or any successor statute) or similar legislation of any other Canadian jurisdiction (including, without limitation, the Civil Code of Québec), the laws of which are required by such legislation to be applied in connection with the issue, perfection, effect of perfection, enforcement, enforceability, opposability, validity or effect of security interests, hypothecs or other applicable Liens.

Priority Payables : at any time, with respect to each Designated Canadian Guarantor:

(a) the amount past due and owing by each such Designated Canadian Guarantor, or the accrued amount for which such Designated Canadian Guarantor has an obligation to remit to a Governmental Authority or other Person pursuant to any

applicable law, rule or regulation, in respect of (i) goods and services taxes, sales taxes, employee income taxes, municipal taxes and other taxes payable or to be remitted or withheld; (ii) workers' compensation; (iii) vacation or holiday pay; and (iv) other like charges and demands to the extent any Governmental Authority or other Person may claim a security interest, Lien, trust or other claim ranking or capable of ranking in priority to or *pari passu* with one or more of the first priority Liens granted in the Security Documents; and

(b) the aggregate amount of any other liabilities of each such Designated Canadian Guarantor in respect of which a trust has been imposed on any Collateral to provide for payment;

in each case net of the aggregate amount of all restricted cash held or set aside for the payment of such obligations.

Pro Rata : with respect to any Lender, a percentage (carried out to the ninth decimal place) determined (a) while Commitments are outstanding, by dividing the amount of such Lender's Commitment by the aggregate amount of all Commitments; and (b) at any other time, by dividing the amount of such Lender's Loans and LC Obligations by the aggregate amount of all outstanding Loans and LC Obligations.

Proceeds Cash Collateral Account : any Cash Collateral Account into which the proceeds of Collateral or payments on Accounts constituting Collateral are deposited.

Properly Contested : with respect to any obligation of any Person, (a) the obligation is subject to a bona fide dispute regarding amount or the Person's liability to pay; (b) the obligation is being properly contested in good faith by appropriate proceedings promptly instituted and diligently pursued; (c) appropriate reserves have been established to the extent required in accordance with GAAP; (d) non-payment could not reasonably be expected to have a Material Adverse Effect, nor result in forfeiture or sale of any material portion of the assets of the Person; (e) no Lien is imposed on any material portion of the assets of the Person, unless bonded and stayed to the extent reasonably requested by and to the satisfaction of Agent; and (f) if the obligation results from entry of a judgment or other order, such judgment or order is stayed pending appeal or other judicial review.

Property : any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

Protective Advances : as defined in **Section 2.1.6** .

Purchase Money Debt : (a) Debt (other than the Obligations) for payment of any of the purchase price of fixed assets; (b) Debt (other than the Obligations) incurred within 10 days before or after acquisition of any fixed assets, for the purpose of financing any of the purchase price thereof; and (c) any renewals, extensions or refinancings (but not increases) thereof.

Purchase Money Lien : a Lien that secures Purchase Money Debt, encumbering only the fixed assets acquired with such Debt, and any accession, addition or improvement thereto, any

replacement thereof and the proceeds thereof, together with customary cash deposits, and constituting a Capital Lease or a purchase money security interest under the UCC.

RCRA : the Resource Conservation and Recovery Act (42 U.S.C. §§ 6991-6991i).

Real Estate : all right, title and interest (whether as owner, lessor or lessee) in any real Property or any buildings, structures, parking areas or other improvements thereon.

Receivables Purchase Facility : that certain non-recourse (other than customary recourse provisions included therein) receivables purchase facility contemplated by (i) the Receivables Transfer and Contribution Agreement between Sanmina and Sanmina SPV LLC and (ii) the Credit and Security Agreement among Sanmina SPV LLC, the lenders from time to time party thereto and Deutsche Bank AG, New York Branch, pursuant to which Sanmina will contribute to such Subsidiary receivables and Related Assets from one or more of the obligors listed on Schedule 1.1 to the Disclosure Letter and such Subsidiary will obtain loans secured by such receivables and Related Assets; provided that upon notice to Agent and the delivery to Agent of a current Borrowing Base Certificate (giving pro forma effect to any permitted addition or deletion of obligors from such Schedule) and so long as no Default, Event of Default or Trigger Period exists at the time thereof or would result therefrom, Borrower Agent may at any time during the last month of a Fiscal Quarter delete obligors from such Schedule or add additional obligors to such Schedule so long as (1) the total number of additional obligors added in any Fiscal Year does not exceed five and (2) the aggregate Value of the Accounts of such additional obligors during any Fiscal Year does not exceed 10% of the aggregate Commitments then in effect (as determined by reference to the most recent Borrowing Base Certificate delivered pursuant to **Section 8.1**); and provided, further, notwithstanding the limitations in clauses (1) and (2) above, up to five additional obligors that are not obligors in respect of any Accounts constituting Collateral on the Closing Date may be added to such Schedule so long as the aggregate Value of the Accounts of such additional obligors does not exceed \$75,000,000 (determined with respect to each such obligor at the respective date of addition to such Schedule).

Refinancing Conditions : the following conditions for Refinancing Debt: (a) it is in an aggregate principal amount that does not exceed the principal amount of the Debt being extended, renewed or refinanced plus an amount necessary to pay any fees and expenses, including premiums and defeasances costs, related thereto; (b) it has a final maturity no sooner than, and a weighted average life no less than, the Debt being extended, renewed or refinanced; (c) it is subordinated to the Obligations at least to the same extent as the Debt being extended, renewed or refinanced; (d) taken as a whole in each case, (i) the representations, (ii) the covenants and (iii) the defaults applicable to it are not materially less favorable to Borrowers than those applicable to the Debt being extended, renewed or refinanced (it being understood and agreed that, in determining whether any of the foregoing provisions of Refinancing Debt are materially less favorable to Borrowers, Borrower Agent shall be permitted (but shall not be required) to consult with Agent prior to incurring such Refinancing Debt and request that Agent make a determination as to whether such provisions are materially less favorable to Borrowers, and the good faith determination of Agent in that regard shall be definitive and it being further



understood that Agent shall have no obligation to make any such determination); (e) no additional Lien is granted to secure it; (f) no additional Person is obligated on such Debt unless such Person would otherwise be permitted under this Agreement to be obligated on the Debt being extended, renewed or refinanced; and (g) upon giving effect to it, no Default or Event of Default exists.

**Refinancing Debt**: Borrowed Money that is the result of an extension, renewal or refinancing of Debt permitted under **Section 10.2.1 (b)**, **(d)** or **(f)**.

**Related Assets**: with respect to any receivables, any assets related thereto (but, for the avoidance of doubt, not including any such assets relating to the Eligible Accounts), including all collateral securing such receivables, all contracts and contract rights, purchase orders, leases, security interests, financing statements or other documentation in respect of such receivables, and all guarantees indemnities, warranties or other documentation or other obligations in respect of any such receivable, any other assets which are customarily transferred, or in respect of which security interests are customarily granted in connection with transactions involving receivables similar to the receivables, interest in goods represented by the receivables and all goods returned by or reclaimed, repossessed or recovered from, the account debtor, and any collections or proceeds of the foregoing.

**Reimbursement Date**: as defined in **Section 2.2.2**.

**Rent and Charges Reserve**: the aggregate of (a) all past due rent and other amounts owing by an Obligor to any landlord, warehouseman, processor, repairman, mechanic, shipper, freight forwarder, broker or other Person who possesses any Collateral or could assert a Lien on any Collateral; and (b) a reserve at least equal to three months rent and other charges that could reasonably be expected to be payable to any such Person, unless it has executed a Lien Waiver.

**Report**: as defined in **Section 12.2.3**.

**Reportable Event**: any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

**Required Lenders**: Lenders (subject to **Section 4.2**) having (a) Commitments in excess of 50% of the aggregate Commitments; and (b) if the Commitments have terminated, Loans in excess of 50% of all outstanding Loans; provided that in the event there are five or fewer non-affiliated Lenders, "Required Lenders" shall mean three or more non-affiliated Lenders (subject to **Section 4.2**) having (y) Commitments in excess of 50% of the aggregate Commitments; and (z) if the Commitments have terminated, Loans in excess of 50% of all outstanding Loans.

**Reserve Percentage**: the reserve percentage (expressed as a decimal, rounded upward to the nearest 1/16th of 1%) applicable to member banks under regulations issued from time to time by the Board of Governors for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as "Eurocurrency liabilities").

**Restricted Investment**: any Investment by a Borrower or Subsidiary, other than (a) Investments in Subsidiaries to the extent existing on the Closing Date; (b) Cash Equivalents;

30

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provided that if such Cash Equivalents are owned by an Obligor, the Cash Equivalents are subject to Agent's Lien and control, pursuant to documentation in form and substance reasonably satisfactory to Agent; and (c) loans and advances permitted under **Section 10.2.4**.

**Restrictive Agreement**: an agreement (other than a Loan Document) that conditions or restricts the right of any Borrower, Subsidiary or other Obligor to incur or repay Borrowed Money, to grant Liens on any assets, to declare or make Distributions, to modify, extend or renew any agreement evidencing Borrowed Money, or to repay any Intercompany Debt.

**Revolver Note**: a promissory note to be executed by Borrowers in favor of a Lender in the form of **Exhibit A**, which shall be in the amount of such Lender's Commitment and shall evidence the Loans made by such Lender.

**Revolver Termination Date**: the earlier of (a) the date that occurs 90 days prior to the maturity date of (i) the 2010 Senior Notes or (ii) the 2013 Senior Subordinated Notes, in each case if such Notes are not repaid, redeemed, defeased, refinanced or reserved under the Borrowing Base prior to such date, and (b) the fifth anniversary of the Closing Date.

**Royalties**: all royalties, fees, expense reimbursement and other amounts payable by a Borrower under a License.

**S&P**: Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and its successors.

**Secured Parties**: Agent, Issuing Bank, Lenders and providers of Bank Products.

**Securitization Subsidiary**: a Subsidiary of Sanmina created solely for the purposes of effecting a securitization facility, the activities and assets of which are limited solely to such purpose and assets, and the charter documents of which contain customary bankruptcy-remote provisions, or a non-Obligor Subsidiary of Sanmina, as the case may be.

Security Documents: this Agreement, the Guaranties, Deposit Account Control Agreements, security agreements, deeds of hypothec and all other documents, instruments and agreements now or hereafter securing (or given with the intent to secure) any Obligations.

Senior Indentures: those certain indentures, by and among Sanmina, certain Subsidiaries thereof and the trustee party thereto and each governing one of either series of the Senior Notes, as each such indenture may be amended, supplemented, or otherwise modified from time to time.

Senior Notes: (a) the Senior Floating Rate Notes due 2010 issued by Sanmina pursuant to an indenture, dated as of June 12, 2007, in the aggregate original principal amount of \$300,000,000 (the “2010 Notes”), (b) the Senior Floating Rate Notes due 2014 issued by Sanmina pursuant to an indenture, dated as of June 12, 2007, in the aggregate original principal amount of \$300,000,000, and (c) any registered notes issued by Sanmina in exchange for, and as contemplated by, any of the Senior Notes with substantially identical terms as the Senior Notes.

Senior Officer: the chairman of the board, president, chief executive officer, chief financial officer or treasurer of a Borrower or, if the context requires, an Obligor.

Senior Subordinated Indentures: those certain indentures, by and among Sanmina, certain Subsidiaries thereof and the trustee party thereto and each governing one of either series of the Senior Subordinated Notes, as each such indenture may be amended, supplemented, or otherwise modified from time to time.

Senior Subordinated Notes: (a) the 8.125% Senior Subordinated Notes due 2016 issued by Sanmina pursuant to an indenture, dated as of February 15, 2006, (b) the 6 <sup>3</sup>/<sub>4</sub> % Senior Subordinated Notes due 2013 issued by Sanmina pursuant to an indenture, dated as of February 24, 2005 (the “2013 Notes”), and (c) any registered notes issued by Sanmina in exchange for, and as contemplated by, any of the Senior Subordinated Notes with substantially identical terms as the Senior Subordinated Notes.

Settlement Report: a report delivered by Agent to Lenders summarizing the Loans and participations in LC Obligations outstanding as of a given settlement date, allocated to Lenders on a Pro Rata basis in accordance with their Commitments.

Solvent: as to any Person as of the date of determination, such Person (a) owns Property whose fair salable value is greater than the amount required to pay all of its debts (including contingent, subordinated, unmatured and unliquidated liabilities); (b) owns Property whose present fair salable value (as defined below) is greater than the probable total liabilities (including contingent, subordinated, unmatured and unliquidated liabilities) of such Person as they become absolute and matured; (c) is able to pay all of its debts as they mature; (d) has capital that is not unreasonably small for its business and is sufficient to carry on its business and transactions and all business and transactions in which it is about to engage; (e) is not “insolvent” within the meaning of Section 101(32) of the Bankruptcy Code or, as regards a Canadian Subsidiary, is not an “insolvent person” within the meaning of the Bankruptcy and Insolvency Act (Canada); and (f) has not incurred (by way of assumption or otherwise) any obligations or liabilities (contingent or otherwise) under any Loan Documents, or made any conveyance in connection therewith, with actual intent to hinder, delay or defraud either present or future creditors of such Person or any of its Affiliates. “Fair salable value” means the amount that could be obtained for assets within a reasonable time, either through collection or through sale under ordinary selling conditions by a capable and diligent seller to an interested buyer who is willing (but under no compulsion) to purchase. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

Subordinated Debt: Debt incurred by a Borrower that is expressly subordinate and junior in right of payment to Full Payment of all Obligations, has no scheduled amortization payments or mandatory prepayments or redemptions (other than as a result of an event of default thereunder or as a result of customary change of control provisions) prior to 91 days after the Revolver Termination Date, and the covenants and subordination provisions thereof are reasonably satisfactory to Agent. Subordinated Debt includes the Debt evidenced by the Senior Subordinated Notes and Senior Subordinated Note Indentures; provided that such Debt may have a maturity date prior to the Revolver Termination Date so long as at least 90 days prior to such

maturity date, such Debt is repaid, redeemed, defeased or refinanced or, on such 90<sup>th</sup> day, reserved for under the Borrowing Base.

Subsidiary : any entity at least 50% of whose voting securities or Equity Interests is owned by a Borrower or any combination of Borrowers (including indirect ownership by a Borrower through other entities in which the Borrower directly or indirectly owns at least 50% of the voting securities or Equity Interests); provided that, in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a “qualifying share” of the first Person shall be deemed to be outstanding.

Swingline Loan : any Borrowing of Base Rate Loans funded with Agent’s funds, until such Borrowing is settled among Lenders or repaid by Borrowers.

Syndication Agent : Deutsche Bank Trust Company Americas.

Taxes : all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

Transferee : any actual or potential Eligible Assignee, Participant or other Person acquiring an interest in any Obligations.

Trigger Period : the period (a) commencing on the day that an Event of Default occurs, or Availability is less than \$50,000,000 at any time; and (b) continuing until the date on which, during the preceding 60 consecutive days, no Event of Default has existed and Availability has been greater than \$50,000,000 at all times, provided that after there are three Trigger Periods in any Fiscal Year, in the event that on any date in such Fiscal Year an Event of Default occurs or Availability is less than \$50,000,000, then a Trigger Period shall be deemed to commence on either such date and shall continue until the date on which, during the preceding 180 consecutive days, no Event of Default has existed and Availability has been greater than \$50,000,000 at all times; and provided, further, that prior to the Availability Election each of the \$50,000,000 Availability thresholds in this definition shall be reduced by the amount (to the extent not in excess of \$25,000,000) of Excess Availability on the respective date of determination.

Type : any type of a Loan (i.e., Base Rate Loan or LIBOR Loan) that has the same interest option and, in the case of LIBOR Loans, the same Interest Period.

UCC : the Uniform Commercial Code as in effect in the State of New York or, when the laws of any other jurisdiction govern the perfection or enforcement of any Lien, the Uniform Commercial Code of such jurisdiction or the PPSA.

Unfunded Pension Liability : the excess of a Pension Plan’s benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan’s assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

Upstream Payment : a Distribution by a Subsidiary of a Borrower to such Borrower or a wholly-owned Subsidiary.

Value: (a) for Inventory, its value determined on the basis of the lower of cost or market, calculated on a first-in, first-out basis, and excluding any portion of cost attributable to intercompany profit among Borrowers and their Affiliates; and (b) for an Account, its face amount, net of any returns, rebates, discounts (calculated on the shortest terms), credits, allowances or Taxes (including sales, excise or other taxes) that have been or could be claimed by the Account Debtor or any other Person.

1.2 Accounting Terms. Under the Loan Documents (except as otherwise specified herein), all accounting terms shall be interpreted, all accounting determinations shall be made, and all financial statements shall be prepared, in accordance with GAAP applied on a basis consistent with the most recent audited financial statements of Borrowers delivered to Agent before the Closing Date and using the same inventory valuation method as used in such financial statements, except for any change required or permitted by GAAP if Borrowers' certified public accountants concur in such change, the change is disclosed to Agent, and **Section 10.3** is amended in a manner satisfactory to Required Lenders to take into account the effects of the change. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either Borrower Agent or the Required Lenders shall so request, Agent, the Lenders and Borrower Agent shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); *provided* that, until so amended, (a) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (b) Borrower Agent shall provide to Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

1.3 Uniform Commercial Code. As used herein, the following terms are defined in accordance with the UCC in effect in the State of New York from time to time: "Chattel Paper," "Deposit Account," "Document," "Equipment," "General Intangibles," "Instrument", "Proceeds" and "Supporting Obligation."

1.4 Certain Matters of Construction. The terms "herein," "hereof," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or subdivision. Any pronoun used shall be deemed to cover all genders. In the computation of periods of time from a specified date to a later specified date, "from" means "from and including," and "to" and "until" each mean "to but excluding." The terms "including" and "include" shall mean "including, without limitation" and, for purposes of each Loan Document, the parties agree that the rule of *ejusdem generis* shall not be applicable to limit any provision. Section titles appear as a matter of convenience only and shall not affect the interpretation of any Loan Document. All references to (a) laws or statutes include all related rules, regulations, interpretations, amendments and successor provisions; (b) any document, instrument or agreement (including any Loan Document) include any amendments, waivers and other modifications, extensions or renewals (to the extent permitted by the Loan Documents); (c) any section mean, unless the context otherwise requires, a section of this Agreement; (d) any exhibits or schedules mean, unless the context otherwise requires, exhibits and schedules attached hereto, which are hereby incorporated by reference; (e) any Person include successors and assigns; (f) time of day mean time of day at Agent's notice address under **Section 15.3.1** ; or

(g) discretion of Agent, Issuing Bank or any Lender mean the sole and absolute discretion of such Person. All calculations of Value, fundings of Loans, issuances of Letters of Credit and payments of Obligations shall be in Dollars and, unless the context otherwise requires, all determinations (including calculations of Borrowing Base and financial covenants) made from time to time under the Loan Documents shall be made in light of the circumstances existing at such time. Borrowing Base calculations shall be consistent with historical methods of valuation and calculation, and otherwise satisfactory to Agent (and not necessarily calculated in accordance with GAAP). Borrowers shall have the burden of establishing any alleged negligence, misconduct or lack of good faith by Agent, Issuing Bank or any Lender under any Loan Documents. No provision of any Loan Documents shall be construed against any party by reason of such party having, or being deemed to have, drafted the provision. Whenever the phrase “to the best of Borrowers’ knowledge” or words of similar import are used in any Loan Documents, it means actual knowledge of a Senior Officer, or knowledge that a Senior Officer would have obtained if he or she had engaged in good faith and diligent performance of his or her duties, including reasonably specific inquiries of employees or agents and a good faith attempt to ascertain the matter to which such phrase relates. For purposes of any Collateral located in the Province of Québec or charged by any deed of hypothec (or any other Loan Document) and for all other purposes pursuant to which the interpretation or construction of a Loan Document may be subject to the laws of the Province of Québec or a court or tribunal exercising jurisdiction in the Province of Québec, (i) “personal property” shall be deemed to include “movable property”, (ii) “real property” shall be deemed to include “immovable property” and an “easement” shall be deemed to include a “servitude”, (iii) “tangible property” shall be deemed to include “corporeal property”, (iv) “intangible property” shall be deemed to include “incorporeal property”, (v) “security interest” and “mortgage” shall be deemed to include a “hypothec”, (vi) all references to filing, registering or recording under the PPSA or UCC shall be deemed to include publication under the Civil Code of Québec, and all references to releasing any Lien shall be deemed to include a release, discharge and mainlevée of a hypothec, (vii) all references to “perfection” of or “perfected” Liens shall be deemed to include a reference to the “opposability” of such Liens to third parties, (viii) any “right of offset”, “right of setoff” or similar expression shall be deemed to include a “right of compensation”, (ix) “goods” shall be deemed to include “corporeal movable property” other than chattel paper, documents of title, instruments, money and securities, and (x) an “agent” shall be deemed to include a “mandatary”.

## **SECTION 2. CREDIT FACILITIES**

### **2.1 Commitment.**

2.1.1 Loans. Each Lender agrees, severally, on the terms set forth herein, to make Loans to Borrowers from time to time for the period from and including the Closing Date to the Commitment Termination Date in an aggregate principal amount at any one time outstanding which, when added to such Lender’s Pro Rata share of the sum of the LC Obligations then outstanding and the aggregate principal amount of the Swingline Loans then outstanding, does not exceed the amount of such Lender’s Commitment. The Loans may be repaid and reborrowed as provided herein. In no event shall Lenders have any obligation to honor a request for a Loan if the unpaid balance of Loans outstanding at such time (including the requested Loan) would exceed the Borrowing Base.

2.1.2 Revolver Notes. The Loans made by each Lender and interest accruing thereon shall be evidenced by the records of Agent and such Lender. At the request of any Lender, Borrowers shall deliver a Revolver Note to such Lender.

2.1.3 Use of Proceeds. The proceeds of Loans shall be used by Borrowers solely (a) to satisfy existing Debt; (b) to pay fees and transaction expenses associated with the closing of this credit facility; (c) to pay Obligations in accordance with this Agreement; and (d) for working capital and other lawful corporate purposes of Borrowers (including any transaction permitted by this Agreement).

2.1.4 Voluntary Reduction or Termination of Commitments. The Commitments shall terminate on the Revolver Termination Date, unless sooner terminated in accordance with this Agreement. Upon at least 10 days (or such shorter period as may be agreed to in writing by Agent in its discretion) prior written notice to Agent at any time, Borrower Agent may, at its option, terminate the Commitments and this credit facility or permanently reduce the Commitments, on a Pro Rata basis for each Lender in a minimum amount of \$25,000,000, or an increment of \$1,000,000 in excess thereof; provided that no such reduction in Commitments shall reduce the aggregate amount of the Commitments to less than \$100,000,000. Any notice of termination or reduction given by Borrower Agent shall be irrevocable; provided that a notice of termination of the Commitments delivered by Borrower Agent may state that such notice is conditioned upon the effectiveness of other credit facilities or other financing transaction, in which case such notice may be revoked by Borrower Agent (by notice to Agent on or prior to the specified termination date) if such condition is not satisfied. On the Revolver Termination Date, Borrowers shall make Full Payment of all Obligations.

2.1.5 Overadvances. If the aggregate Loans and LC Obligations exceed the Borrowing Base (“Overadvance”) or the aggregate Commitments at any time, the excess amount shall be payable by Borrowers **on demand** by Agent, but all such Loans shall nevertheless constitute Obligations secured by the Collateral and entitled to all benefits of the Loan Documents. Unless its authority has been revoked in writing by Required Lenders, Agent may require Lenders to honor requests for Overadvance Loans and to forbear from requiring Borrowers to cure an Overadvance, (a) when no other Event of Default is known to Agent, as long as (i) the Overadvance does not continue for more than 30 consecutive days (and no Overadvance may exist for at least five consecutive days thereafter before further Overadvance Loans are required), and (ii) the Overadvance is not known by Agent to exceed 10% of the aggregate Commitments then in effect (less the then outstanding amount of Protective Advances); and (b) regardless of whether an Event of Default exists, if Agent discovers an Overadvance not previously known by it to exist, as long as from the date of such discovery the Overadvance, (i) is not increased by more than \$5,000,000 (less the then outstanding amount of Protective Advances), and (ii) does not continue for more than 30 consecutive days. In no event shall Overadvance Loans be required that would cause the outstanding Loans and LC Obligations to exceed the aggregate Commitments and in no event shall an Overadvance cause the sum of any Lender’s Loans and Pro Rata share of the LC Obligations then outstanding to exceed its Commitment. Any funding of an Overadvance Loan or sufferance of an Overadvance shall not constitute a waiver by Agent or Lenders of the Event of Default caused thereby. In no event shall any Borrower or other Obligor be deemed a beneficiary of this Section nor authorized to enforce any of its terms.

2.1.6 Protective Advances. Agent shall be authorized, in its discretion, at any time that any conditions in **Section 6** are not satisfied, to make Base Rate Loans (“Protective Advances”) (a) up to an aggregate amount outstanding at any time not in excess of 10% of the aggregate Commitments then in effect (less the then outstanding amount of Overadvances), if Agent deems such Loans necessary or desirable to preserve or protect Collateral, or to enhance the collectibility or repayment of Obligations; or (b) to pay any other amounts chargeable to Obligor under any Loan Documents, including costs, fees and expenses. Each Lender shall participate in each Protective Advance on a Pro Rata basis; provided, that in no event shall the aggregate amount of outstanding Protective Advances plus the aggregate amount of outstanding Loans and LC Obligations exceed the aggregate Commitments. Required Lenders may at any time revoke Agent’s authority to make further Protective Advances by written notice to Agent. Absent such revocation, Agent’s determination that funding of a Protective Advance is appropriate shall be conclusive.

## 2.2 Letter of Credit Facility.

2.2.1 Issuance of Letters of Credit. Issuing Bank agrees to issue Letters of Credit from time to time until 30 days prior to the Revolver Termination Date (or until the Commitment Termination Date, if earlier), on the terms set forth herein, including the following:

a. Each Borrower acknowledges that Issuing Bank’s willingness to issue any Letter of Credit is conditioned upon Issuing Bank’s receipt of a LC Application with respect to the requested Letter of Credit, as well as such other instruments and agreements as Issuing Bank may customarily require for issuance of a letter of credit of similar type and amount. Issuing Bank shall have no obligation to issue any Letter of Credit unless (i) Issuing Bank receives a LC Request and LC Application at least three Business Days prior to the requested date of issuance; (ii) each LC Condition is satisfied and (iii) if a Defaulting Lender exists, such Lender or Borrowers have entered into arrangements satisfactory to Agent and Issuing Bank to eliminate any funding risk associated with the Defaulting Lender. If Issuing Bank receives written notice from a Lender at least five Business Days before issuance of a Letter of Credit that any LC Condition has not been satisfied, Issuing Bank shall have no obligation to issue the requested Letter of Credit (or any other) until such notice is withdrawn in writing by that Lender or until Required Lenders have waived such condition in accordance with this Agreement. Prior to receipt of any such notice, Issuing Bank shall not be deemed to have knowledge of any failure of LC Conditions.

b. Letters of Credit may be requested by a Borrower only (i) to support obligations of such Borrower incurred in the Ordinary Course of Business; or (ii) for other purposes as Agent and Lenders may approve from time to time in writing. The renewal or extension of any Letter of Credit shall be treated as the issuance of a new Letter of Credit, except that delivery of a new LC Application shall be required at the discretion of Issuing Bank.

c. Borrowers assume (solely as between Borrowers and Secured Parties) all risks of the acts, omissions or misuses of any Letter of Credit by the beneficiary thereof. In connection with issuance of any Letter of Credit, none of Agent, Issuing Bank or any Lender shall be responsible for the existence, character, quality, quantity, condition, packing, value or delivery of any goods purported to be represented by any Documents; any differences or



variation in the character, quality, quantity, condition, packing, value or delivery of any goods from that expressed in any Documents; the form, validity, sufficiency, accuracy, genuineness or legal effect of any Documents or of any endorsements thereon; the time, place, manner or order in which shipment of goods is made; partial or incomplete shipment of, or failure to ship, any goods referred to in a Letter of Credit or Documents; any deviation from instructions, delay, default or fraud by any shipper or other Person in connection with any goods, shipment or delivery; any breach of contract between a shipper or vendor and a Borrower; errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex, telecopy, e-mail, telephone or otherwise; errors in interpretation of technical terms; the misapplication by a beneficiary of any Letter of Credit or the proceeds thereof; or any consequences arising from causes beyond the control of Issuing Bank, Agent or any Lender, including any act or omission of a Governmental Authority. The rights and remedies of Issuing Bank under the Loan Documents shall be cumulative. Issuing Bank shall be fully subrogated to the rights and remedies of each beneficiary whose claims against Borrowers are discharged with proceeds of any Letter of Credit.

d. In connection with its administration of and enforcement of rights or remedies under any Letters of Credit or LC Documents, Issuing Bank shall be entitled to act, and shall be fully protected in acting, upon any certification, documentation or communication in whatever form believed by Issuing Bank, in good faith, to be genuine and correct and to have been signed, sent or made by a proper Person. Issuing Bank may consult with and employ legal counsel, accountants and other experts to advise it concerning its obligations, rights and remedies, and shall be entitled to act upon, and shall be fully protected in any action taken in good faith reliance upon, any advice given by such experts. Issuing Bank may employ agents and attorneys-in-fact in connection with any matter relating to Letters of Credit or LC Documents, and shall not be liable for the negligence or misconduct of agents and attorneys-in-fact selected with reasonable care.

#### 2.2.2 Reimbursement; Participations.

a. If Issuing Bank honors any request for payment under a Letter of Credit, Borrowers shall pay to Issuing Bank, on the same day (“Reimbursement Date”), the amount paid by Issuing Bank under such Letter of Credit, together with interest at the interest rate for Base Rate Loans from the Reimbursement Date until payment by Borrowers. The obligation of Borrowers to reimburse Issuing Bank for any payment made under a Letter of Credit shall be absolute, unconditional, irrevocable, and joint and several, and shall be paid without regard to any lack of validity or enforceability of any Letter of Credit or the existence of any claim, setoff, defense or other right that Borrowers may have at any time against the beneficiary. Whether or not Borrower Agent submits a Notice of Borrowing, Borrowers shall be deemed to have requested a Borrowing of Base Rate Loans in an amount necessary to pay all amounts due Issuing Bank on any Reimbursement Date and each Lender agrees to fund its Pro Rata share of such Borrowing whether or not the Commitments have terminated, an Overadvance exists or is created thereby, or the conditions in **Section 6** are satisfied.

b. Upon issuance of a Letter of Credit, each Lender shall be deemed to have irrevocably and unconditionally purchased from Issuing Bank, without recourse or warranty, an undivided Pro Rata interest and participation in all LC Obligations relating to the Letter of

Credit. If Issuing Bank makes any payment under a Letter of Credit and Borrowers do not reimburse such payment on the Reimbursement Date, Agent shall promptly notify Lenders and each Lender shall promptly (within one Business Day) and unconditionally pay to Agent, for the benefit of Issuing Bank, the Lender's Pro Rata share of such payment. Upon request by a Lender, Issuing Bank shall furnish copies of any Letters of Credit and LC Documents in its possession at such time.

c. The obligation of each Lender to make payments to Agent for the account of Issuing Bank in connection with Issuing Bank's payment under a Letter of Credit shall be absolute, unconditional and irrevocable, not subject to any counterclaim, setoff, qualification or exception whatsoever, and shall be made in accordance with this Agreement under all circumstances, irrespective of any lack of validity or unenforceability of any Loan Documents; any draft, certificate or other document presented under a Letter of Credit having been determined to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or the existence of any setoff or defense that any Obligor may have with respect to any Obligations. Issuing Bank does not assume any responsibility for any failure or delay in performance or any breach by any Borrower or other Person of any obligations under any LC Documents. Issuing Bank does not make to Lenders any express or implied warranty, representation or guaranty with respect to the Collateral, LC Documents or any Obligor. Issuing Bank shall not be responsible to any Lender for any recitals, statements, information, representations or warranties contained in, or for the execution, validity, genuineness, effectiveness or enforceability of any LC Documents; the validity, genuineness, enforceability, collectibility, value or sufficiency of any Collateral or the perfection of any Lien therein; or the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any Obligor.

d. No Issuing Bank Indemnitee shall be liable to any Lender or other Person for any action taken or omitted to be taken in connection with any LC Documents except as a result of its actual gross negligence or willful misconduct. Issuing Bank shall not have any liability to any Lender if Issuing Bank refrains from any action under any Letter of Credit or LC Documents until it receives written instructions from Required Lenders.

2.2.3 Cash Collateral. If any LC Obligations, whether or not then due or payable, shall for any reason be outstanding at any time (a) that an Event of Default exists, (b) that Availability is less than zero, (c) after the Commitment Termination Date, or (d) within 20 Business Days prior to the Revolver Termination Date, then Borrowers shall, at Issuing Bank's or Agent's request, Cash Collateralize the stated amount of all outstanding Letters of Credit and pay to Issuing Bank the amount of all other LC Obligations. Borrowers shall, **on demand** by Issuing Bank or Agent from time to time, Cash Collateralize the LC Obligations of any Defaulting Lender. If Borrowers fail to provide any Cash Collateral as required hereunder, Lenders may (and shall upon direction of Agent) advance, as Loans, the amount of the Cash Collateral required (whether or not the Commitments have terminated, an Overadvance exists or the conditions in **Section 6** are satisfied).

2.2.4 Existing Letters of Credit. On the Closing Date, (i) each Existing Letter of Credit, to the extent outstanding, shall be automatically and without further action by the parties thereto deemed converted into Letters of Credit issued pursuant to **Section 2.2** for the account of

the Obligors set forth on **Schedule 2.2.4** and subject to the provisions hereof, and for this purpose fees in respect thereof pursuant to **Section 2.2.2(a)** shall be payable (in substitution for any fees set forth in the applicable letter of credit reimbursement agreements or applications relating to such Existing Letters of Credit, except to the extent that such fees are also payable pursuant to **Section 2.2.2(a)**) as if such Existing Letters of Credit had been issued on the Closing Date, (ii) the Lenders set forth on **Schedule 2.2.4**, or their designated Affiliates who are Issuing Banks, with respect to each such Existing Letter of Credit shall be deemed to be the Issuing Bank with respect to such Existing Letters of Credit, (iii) such Letters of Credit shall each be included in the calculation of LC Obligations, and (iv) all liabilities of the Obligors with respect to such Existing Letters of Credit shall constitute Obligations. No Existing Letter of Credit converted in accordance with this **Section 2.2.4** shall be amended, extended or renewed except in accordance with the terms hereof. Notwithstanding the foregoing, the Obligors shall not be required to pay any additional issuance fees with respect to the issuance of such Existing Letter of Credit solely as a result of such letter of credit being converted to a Letter of Credit hereunder, it being understood that the fronting, participation and other fees set forth in **Section 2.2.2(a)** shall otherwise apply to such Existing Letters of Credit.

### 2.3 Increase in the Aggregate Commitments.

a. The Borrower Agent may, at any time, by notice to Agent, request that the aggregate amount of the Commitments be increased in an aggregate amount during the term of this Agreement of up to \$200,000,000 (in a minimum amount of \$25,000,000 and in increments of \$5,000,000) (an “Accordion Increase”) to be effective as of the date upon which the conditions set forth in **Section 2.3(d)** below are fulfilled to the satisfaction of Agent (an “Accordion Effective Date”); provided, however, that (i) in no event shall more than four Accordion Increases occur during the term of this Agreement and (ii) no Default or Event of Default shall have occurred and be continuing as of the date of such request or as of the applicable Accordion Effective Date, or shall occur as a result thereof.

b. Agent will promptly notify the Lenders of a request by the Borrower Agent for an Accordion Increase, which notice shall include the date by which Lenders wishing to participate in such Accordion Increase must commit to an increase in the amount of their respective Commitments (each, a “Commitment Date”) and shall provide that such request is made ratably to all the Lenders. Each Lender that is willing to participate in such Accordion Increase (each, an “Increasing Lender”) shall give written notice to Agent on or prior to the applicable Commitment Date of the amount by which it is willing to increase its Commitment. If the Lenders notify Agent that they are willing to increase the amount of their respective Commitments by an aggregate amount that exceeds the amount of such Accordion Increase, such Accordion Increase shall be allocated ratably among the Lenders willing to participate therein.

c. Promptly following the applicable Commitment Date, Agent shall notify the Borrower Agent as to the amount, if any, by which the Lenders are willing to participate in the applicable Accordion Increase. If the aggregate amount by which the Lenders are willing to participate in such Accordion Increase on the applicable Commitment Date is less than such Accordion Increase, then the Borrower Agent may extend offers to one or more Eligible Assignees to participate in any portion of such Accordion Increase that has not been committed to by the Lenders as of the applicable Commitment Date; provided, however, that the

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Commitment of each such Eligible Assignee shall be in an amount of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof (or such lesser amounts as may be necessary to cause the aggregate increase to equal such Accordion Increase).

d. On the applicable Accordion Effective Date, each Eligible Assignee that accepts an offer to participate in the applicable Accordion Increase in accordance with **Section 2.3(c)** (each such Eligible Assignee being an “Assuming Lender”) shall become a Lender party to this Agreement as of the applicable Accordion Effective Date and the Commitment of each Increasing Lender for such Accordion Increase shall be so increased by such amount (or by the amount allocated to such Lender pursuant to the last sentence of **Section 2.3(b)**) as of such Accordion Effective Date and the Commitment of each Lender as set forth on **Schedule 1.1(b)** shall be adjusted accordingly; provided, that on or before the applicable Accordion Effective Date:

- (1) the full amount of the Accordion Increase has been committed to by Increasing Lenders or Assuming Lenders;
- (2) all amendments to this Agreement deemed reasonably necessary by Agent to accomplish the applicable Accordion Increase shall have been agreed by the parties hereto and any Assuming Lenders;
- (3) all necessary approvals shall have been obtained by each of the Increasing Lenders, the Assuming Lenders and Agent; and
- (4) Agent shall have received the following, each dated such date:
  - (A) (i) certified copies of resolutions of the Borrower Agent approving such Accordion Increase and the corresponding modifications to this Agreement and (ii) an opinion of counsel for the Borrower Agent (which may be in-house counsel), in form and substance reasonably satisfactory to Agent;
  - (B) an assumption agreement from each Assuming Lender, if any, in form and substance satisfactory to the Borrower Agent and Agent (each an “Assumption Agreement”), duly executed by such Eligible Assignee, Agent and the Borrower Agent; and
  - (C) confirmation from each Increasing Lender of the increase in the amount of its Commitment in a writing

satisfactory to the Borrower Agent and Agent.

On the applicable Accordion Effective Date, upon fulfillment of the conditions set forth in the immediately preceding sentence of this **Section 2.3(d)** , Agent shall notify the Lenders (including, without limitation, each Assuming Lender) and the Borrower Agent, on or before 2:00 pm (New York time), by facsimile, email or other electronic communication, of the occurrence of such Accordion Increase and shall record in the Loan Account the relevant information with respect to each Increasing Lender and each Assuming Lender on such date. The Borrower Agent shall prepay Loans on such Accordion Effective Date to the extent

necessary to cause the outstanding Loans to be ratable with the Commitment of each Lender. This Section shall supersede the provisions of **Section 15.1** as applicable.

### **SECTION 3. INTEREST, FEES AND CHARGES**

#### **3.1 Interest.**

##### **3.1.1 Rates and Payment of Interest.**

a. The Obligations shall bear interest (i) if a Base Rate Loan, at the Alternate Base Rate in effect from time to time, plus the Applicable Margin; (ii) if a LIBOR Loan, at LIBOR for the applicable Interest Period, plus the Applicable Margin; and (iii) if any other Obligation (including, to the extent permitted by law, interest not paid when due), at the Alternate Base Rate in effect from time to time, plus the Applicable Margin for Base Rate Loans. Interest shall accrue from the date the Loan is advanced or the Obligation is incurred or payable, until paid by Borrowers. If a Loan is repaid on the same day made, one day's interest shall accrue.

b. During an Insolvency Proceeding with respect to any Borrower, or during any other Event of Default if Agent or Required Lenders in their discretion so elect, Obligations shall bear interest at the Default Rate (whether before or after any judgment). Each Borrower acknowledges that the cost and expense to Agent and Lenders due to an Event of Default are difficult to ascertain and that the Default Rate is a fair and reasonable estimate to compensate Agent and Lenders for this.

c. Interest accrued on the Loans shall be due and payable in arrears, (i) on the first day of each quarter with respect to Base Rate Loans; (ii) on the last day of any Interest Period with respect to LIBOR Loans, provided that accrued interest on LIBOR Loans having an Interest Period of 180 days shall also be paid on the 90<sup>th</sup> day of each such Interest Period; (iii) on any date of prepayment, with respect to the principal amount of Loans being prepaid; and (iv) on the Commitment Termination Date. Interest accrued on any other Obligations shall be due and payable as provided in the Loan Documents and, if no payment date is specified, shall be due and payable **on demand**. Notwithstanding the foregoing, interest accrued at the Default Rate shall be due and payable **on demand**.

##### **3.1.2 Application of LIBOR to Outstanding Loans.**

a. Borrower Agent may on any Business Day, subject to delivery of a Notice of Conversion/Continuation, elect to convert any portion of the Base Rate Loans to, or to continue any LIBOR Loan at the end of its Interest Period as, a LIBOR Loan. During any Default or Event of Default, Agent may (and shall at the direction of Required Lenders) declare that no Loan may be made, converted or continued as a LIBOR Loan.

b. Whenever Borrowers desire to convert or continue Loans as LIBOR Loans, Borrower Agent shall give Agent a Notice of Conversion/Continuation, no later than 11:00 a.m. at least three Business Days before the requested conversion or continuation date. Promptly after receiving any such notice, Agent shall notify each Lender thereof. Each Notice of

Conversion/Continuation shall be irrevocable, and shall specify the amount of Loans to be converted or continued, the conversion or continuation date (which shall be a Business Day), and the duration of the Interest Period (which shall be deemed to be 30 days if not specified). If, upon the expiration of any Interest Period in respect of any LIBOR Loans, Borrowers shall have failed to deliver a Notice of Conversion/Continuation, they shall be deemed to have elected to convert such Loans into Base Rate Loans.

3.1.3 Interest Periods. In connection with the making, conversion or continuation of any LIBOR Loans, Borrowers shall select an interest period (“Interest Period”) to apply, which interest period shall be 30, 60, 90 or 180 days; provided, however, that:

- a. the Interest Period shall commence on the date the Loan is made or continued as, or converted into, a LIBOR Loan, and shall expire on the numerically corresponding day in the calendar month at its end;
- b. if any Interest Period commences on a day for which there is no corresponding day in the calendar month at its end or if such corresponding day falls after the last Business Day of such month, then the Interest Period shall expire on the last Business Day of such month; and if any Interest Period would expire on a day that is not a Business Day, the period shall expire on the next Business Day; and
- c. no Interest Period shall extend beyond the Revolver Termination Date.

3.1.4 Interest Rate Not Ascertainable. If Agent shall determine that on any date for determining LIBOR, due to any circumstance affecting the London interbank market, adequate and fair means do not exist for ascertaining such rate on the basis provided herein, then Agent shall immediately notify Borrower Agent of such determination. Until Agent notifies Borrower Agent that such circumstance no longer exists, the obligation of Lenders to make LIBOR Loans shall be suspended, and no further Loans may be converted into or continued as LIBOR Loans.

### 3.2 Fees.

3.2.1 Unused Line Fee. Borrowers shall pay to Agent, for the Pro Rata benefit of Lenders, a fee accruing during each calendar quarter when the average daily aggregate amount of Loans and LC Obligations during the preceding calendar quarter or any portion thereof (a) is less than 50% of the Commitments in such prior calendar quarter, at the rate of 0.625% per annum and (b) is equal to or in excess of 50% of the Commitments in such prior calendar quarter, at a rate of 0.50% per annum, in each case times the daily amount by which the Commitments in such calendar quarter exceed the aggregate amount of Loans, amounts owing for any drawings under Letters of Credit and stated amount of Letters of Credit during such calendar quarter. Such fee shall be determined by Agent and be payable quarterly in arrears, on the first day of each calendar quarter commencing on the first quarter to occur after the Closing Date and on the Commitment Termination Date.

3.2.2 LC Facility Fees. Borrowers shall pay (a) to Agent, for the Pro Rata benefit of Lenders, a fee equal to the Applicable Margin in effect for LIBOR Loans times the average daily stated amount of Letters of Credit, which fee shall be payable monthly in arrears,

on the first day of each month; (b) to Agent, for its own account, a fronting fee equal to 0.125% per annum on the stated amount of each Letter of Credit, which fee shall be payable quarterly in arrears, on the first day of each calendar quarter commencing on the first quarter to occur after the Closing Date; and (c) to Issuing Bank, for its own account, all customary charges associated with the issuance, amending, negotiating, payment, processing, transfer and administration of Letters of Credit, which charges shall be paid as and when incurred. During an Event of Default, the fee payable under clause (a) shall be increased by 2% per annum.

3.2.3 **Agent Fees.** In consideration of Agent's and Lead Arrangers' syndication of the Commitments and Agent's service hereunder, Borrowers shall pay to Agent and Lead Arrangers, respectively, for their own account, the fees described in the Fee Letter.

3.3 **Computation of Interest, Fees, Yield Protection.** All interest on LIBOR Loans shall be computed for the actual days elapsed, based on a year of 360 days, and all interest on Base Rate Loans, as well as fees and other charges calculated on a per annum basis, shall be computed for the actual days elapsed, based on a year of 365 or 366 days, as applicable. Each determination by Agent of any interest, fees or interest rate hereunder shall be final, conclusive and binding for all purposes, absent manifest error. All fees shall be fully earned when due and shall not be subject to rebate, refund or proration. All fees payable under **Section 3.2** are compensation for services and are not, and shall not be deemed to be, interest or any other charge for the use, forbearance or detention of money. A certificate as to amounts payable by Borrowers under **Section 3.4, 3.6, 3.7, 3.9 or 5.8**, submitted to Borrower Agent by Agent or the affected Lender, as applicable, shall be final, conclusive and binding for all purposes, absent manifest error, and Borrowers shall pay such amounts to the appropriate party within 10 days following receipt of the certificate. For the purposes of the Interest Act (Canada), (i) whenever any interest or fees under this Agreement or any other Loan Document is calculated using a rate based on a year of 360 days, the rate determined pursuant to such calculation, when expressed as an annual rate, is equivalent to (x) the applicable rate, (y) multiplied by the actual number of days in the calendar year in which the period for which such interest is payable (or compounded) ends, and (z) divided by 360, (ii) the principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement, and (iii) the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

3.4 **Reimbursement Obligations.** Borrowers shall reimburse Agent and any Lender for all Extraordinary Expenses. Borrowers shall also reimburse Agent, Syndication Agent and the Lead Arrangers for all reasonable legal, accounting, appraisal, consulting, and other fees, costs and expenses incurred by it in connection with (a) negotiation and preparation of any Loan Documents, including any amendment or other modification thereof; (b) administration of and actions relating to any Collateral, Loan Documents and transactions contemplated thereby, including any actions taken to perfect or maintain priority of Agent's Liens on any Collateral, to maintain any insurance required hereunder or to verify Collateral; and (c) subject to the limits of **Section 10.1.1(b)**, each inspection, audit or appraisal with respect to any Obligor or Collateral, whether prepared by Agent's personnel or a third party. All legal, accounting and consulting fees shall be charged to Borrowers by Agent's, Syndication Agent's and the Lead Arrangers' professionals, as applicable, at their full hourly rates, regardless of any reduced or alternative fee billing arrangements that Agent, Syndication Agent, the Lead Arrangers, any Lender or any of their Affiliates may have with such professionals with respect to this or any other transaction. If,

for any reason (including inaccurate reporting on financial statements or a Compliance Certificate), it is determined that a higher Applicable Margin should have applied to a period than was actually applied, then the proper margin shall be applied retroactively and Borrowers shall immediately pay to Agent, for the Pro Rata benefit of Lenders, an amount equal to the difference between the amount of interest and fees that would have accrued using the proper margin and the amount actually paid. All amounts payable by Borrowers under this Section shall be due **on demand**. For the avoidance of doubt, the provisions of this **Section 3.4** shall apply regardless of whether the Closing Date occurs.

3.5 **Illegality.** If any Lender determines that any Applicable Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund LIBOR Loans, or to determine or charge interest rates based upon LIBOR, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to Agent, any obligation of such Lender to make or continue LIBOR Loans or to convert Base Rate Loans to LIBOR Loans shall be suspended until such Lender notifies Agent that the circumstances giving rise to such determination no longer exist. Upon delivery of such notice, Borrowers shall prepay or, if applicable, convert all LIBOR Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such LIBOR Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such LIBOR Loans. Upon any such prepayment or conversion, Borrowers shall also pay accrued interest on the amount so prepaid or converted.

3.6 **Inability to Determine Rates.** If Required Lenders notify Agent for any reason in connection with a request for a Borrowing of, or conversion to or continuation of, a LIBOR Loan that (a) Dollar deposits are not being offered to banks in the London interbank Eurodollar market for the applicable amount and Interest Period of such Loan, (b) adequate and reasonable means do not exist for determining LIBOR for the requested Interest Period, or (c) LIBOR for the requested Interest Period does not adequately and fairly reflect the cost to such Lenders of funding such Loan, then Agent will promptly so notify Borrower Agent and each Lender. Thereafter, the obligation of Lenders to make or maintain LIBOR Loans shall be suspended until Agent (upon instruction by Required Lenders) revokes such notice. Upon receipt of such notice, Borrower Agent may revoke any pending request for a Borrowing of, conversion to or continuation of a LIBOR Loan or, failing that, will be deemed to have submitted a request for a Base Rate Loan.

3.7 **Increased Costs; Capital Adequacy.**

3.7.1 Change in Law. If any Change in Law shall:

a. impose modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in LIBOR) or Issuing Bank;



b. subject any Lender or Issuing Bank to any Tax with respect to any Loan, Loan Document, Letter of Credit or participation in LC Obligations, or change the basis of taxation of payments to such Lender or Issuing Bank in respect thereof (except in each case for Indemnified Taxes or Other Taxes covered by **Section 5.8** and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender or Issuing Bank); or

c. impose on any Lender or Issuing Bank or the London interbank market any other condition, cost or expense affecting any Loan, Loan Document, Letter of Credit or participation in LC Obligations;

and the result thereof shall be to increase the cost to such Lender of making or maintaining any LIBOR Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or Issuing Bank of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or Issuing Bank hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or Issuing Bank (which request shall be accompanied by a certificate of such Lender or Issuing Bank setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or Issuing Bank and the basis therefor), Borrowers will pay to such Lender or Issuing Bank, as applicable, such additional amount or amounts as will compensate such Lender or Issuing Bank, as applicable, for such additional costs incurred or reduction suffered.

3.7.2 Capital Adequacy. If any Lender or Issuing Bank determines that any Change in Law affecting such Lender or Issuing Bank or any Lending Office of such Lender or such Lender's or Issuing Bank's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's, Issuing Bank's or holding company's capital as a consequence of this Agreement, or such Lender's or Issuing Bank's Commitments, Loans, Letters of Credit or participations in LC Obligations, to a level below that which such Lender, Issuing Bank or holding company could have achieved but for such Change in Law (taking into consideration such Lender's, Issuing Bank's and holding company's policies with respect to capital adequacy), then from time to time upon the request of such Lender or Issuing Bank (which request shall be accompanied by a certificate of such Lender or Issuing Bank setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or Issuing Bank and the basis therefor), Borrowers will pay to such Lender or Issuing Bank, as the case may be, such additional amount or amounts as will compensate it or its holding company for any such reduction suffered.

3.7.3 Compensation. Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of its right to demand such compensation, but Borrowers shall not be required to compensate a Lender or Issuing Bank for any increased costs incurred or reductions suffered more than nine months prior to the date that the Lender or Issuing Bank notifies Borrower Agent of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

3.8 Mitigation. If any Lender gives a notice under **Section 3.5** or requests compensation under **Section 3.7**, or if Borrowers are required to pay additional amounts with respect to a Lender under **Section 5.8**, then such Lender shall use reasonable efforts to designate a different Lending Office or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the judgment of such Lender, such designation or assignment (a) would eliminate the need for such notice or reduce amounts payable or to be withheld in the future, as applicable; and (b) would not subject the Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to it. Borrowers shall pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

3.9 Funding Losses. If for any reason (other than default by a Lender) (a) any Borrowing of, or conversion to or continuation of, a LIBOR Loan does not occur on the date specified therefor in a Notice of Borrowing or Notice of Conversion/Continuation (whether or not withdrawn), (b) any repayment or conversion of a LIBOR Loan occurs on a day other than the end of its Interest Period, or (c) Borrowers fail to repay a LIBOR Loan when required hereunder, then Borrowers shall pay to Agent its customary administrative charge and to each Lender all losses and expenses that it sustains as a consequence thereof, including loss of anticipated profits and any loss or expense arising from liquidation or redeployment of funds or from fees payable to terminate deposits of matching funds. Lenders shall not be required to purchase Dollar deposits in the London interbank market or any other offshore Dollar market to fund any LIBOR Loan, but the provisions hereof shall be deemed to apply as if each Lender had purchased such deposits to fund its LIBOR Loans.

3.10 Maximum Interest. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by Applicable Law (“maximum rate”). If Agent or any Lender shall receive interest in an amount that exceeds the maximum rate, the excess interest shall be applied to the principal of the Obligations or, if it exceeds such unpaid principal, refunded to Borrowers. In determining whether the interest contracted for, charged or received by Agent or a Lender exceeds the maximum rate, such Person may, to the extent permitted by Applicable Law, (a) characterize any payment that is not principal as an expense, fee or premium rather than interest; (b) exclude voluntary prepayments and the effects thereof; and (c) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

3.11 Removal or Replacement of a Lender. Anything contained herein to the contrary notwithstanding, and except during the occurrence and continuance of a Default or Event of Default, in the event that: (a) any Lender (an “**Increased-Cost Lender**”) shall give notice to Borrower Agent that such Lender is entitled to receive payments under **Section 3.7** or **Section 5.8**, or pursuant to **Section 3.5** is unable to make LIBOR Loans, the circumstances which have caused such Lender to be unable to make LIBOR Loans or which entitle such Lender to receive such payments shall remain in effect, and such Lender shall fail to withdraw such notice within five (5) Business Days after Borrower Agent’s request for such withdrawal; (b) any Lender is a Defaulting Lender; or (c) in connection with any proposed amendment, modification, termination, waiver or consent with respect to any of the provisions hereof as contemplated by **Section 15.1.1**, the consent of Required Lenders shall have been obtained but the consent of one

or more of such other Lenders (each a “**Non-Consenting Lender**”) whose consent is required shall not have been obtained; then, with respect to each such Increased-Cost Lender, Defaulting Lender or Non-Consenting Lender (the “**Terminated Lender**”), Borrower Agent may, by giving written notice to Agent and any Terminated Lender of its election to do so, elect to cause such Terminated Lender (and such Terminated Lender hereby irrevocably agrees) to assign its outstanding Loans in full to one or more Eligible Assignees (each a “**Replacement Lender**”) in accordance with the provisions of **Section 13.3** and Terminated Lender shall pay any fees payable thereunder in connection with such assignment; provided, (1) on the date of such assignment, the Replacement Lender shall pay to Terminated Lender an amount equal to the principal of, and all accrued interest on, all outstanding Loans of the Terminated Lender (and, other than as specified in clause (2) below, no premium shall be payable in connection therewith); (2) on the date of such assignment, Borrower Agent shall pay any amounts payable to such Terminated Lender pursuant to **Section 3.5** or otherwise and Borrower Agent shall reimburse the Terminated Lender for any fees paid by such Terminated Lender pursuant to **Section 13.3** and in connection with the assignment; and (3) in the event such Terminated Lender is a Non-Consenting Lender, each Replacement Lender shall consent, at the time of such assignment, to each matter in respect of which such Terminated Lender was a Non-Consenting Lender. Upon the prepayment of all amounts owing to any Terminated Lender, such Terminated Lender shall no longer constitute a “Lender” for purposes hereof; provided, any rights of such Terminated Lender to indemnification hereunder shall survive as to such Terminated Lender.

## **SECTION 4. LOAN ADMINISTRATION**

### **4.1 Manner of Borrowing and Funding Loans.**

#### **4.1.1 Notice of Borrowing.**

a. Whenever Borrowers desire funding of a Borrowing of Loans, Borrower Agent shall give Agent a Notice of Borrowing. Such notice must be received by Agent no later than 11:00 a.m. (i) on the Business Day of the requested funding date, in the case of Base Rate Loans, and (ii) at least three Business Days prior to the requested funding date, in the case of LIBOR Loans. Notices received after 11:00 a.m. shall be deemed received on the next Business Day. Each Notice of Borrowing shall be irrevocable and shall specify (A) the amount of the Borrowing, (B) the requested funding date (which must be a Business Day), (C) whether the Borrowing is to be made as Base Rate Loans or LIBOR Loans, and (D) in the case of LIBOR Loans, the duration of the applicable Interest Period (which shall be deemed to be 30 days if not specified). In addition, in the case of a Borrowing after the Availability Election which would result in Availability being less than \$50,000,000, the Notice of Borrowing shall demonstrate that the Fixed Charge Coverage Ratio would be not less than 1.00 : 1.00 after giving effect to such Borrowing as of the end of the Fiscal Quarter immediately preceding such funding for which financial information pursuant to **Section 10.1.2(a)** or **(b)** has been delivered to Agent.

b. Unless payment is otherwise timely made by Borrowers, the becoming due of any Obligations (whether principal, interest, fees or other charges, including Extraordinary Expenses, LC Obligations, Cash Collateral and Bank Product Debt) shall be deemed to be a request for Base Rate Loans on the due date, in the amount of such Obligations. The proceeds of such Loans shall be disbursed as direct payment of the relevant Obligation. In

addition, Agent may, at its option, charge such Obligations against any operating, investment or other account of a Borrower maintained with Agent or any of its Affiliates.

c. If Borrowers establish a controlled disbursement account with Agent or any Affiliate of Agent, then the presentation for payment of any check or other item of payment drawn on such account at a time when there are insufficient funds to cover it shall be deemed to be a request for Base Rate Loans on the date of such presentation, in the amount of the check and items presented for payment. The proceeds of such Loans may be disbursed directly to the controlled disbursement account or other appropriate account.

4.1.2 Fundings by Lenders. Each Lender shall timely honor its Commitment by funding its Pro Rata share of each Borrowing of Loans that is properly requested hereunder. Except for Borrowings to be made as Swingline Loans, Agent shall endeavor to notify Lenders of each Notice of Borrowing (or deemed request for a Borrowing) by 12:00 noon on the proposed funding date for Base Rate Loans or by 3:00 p.m. at least two Business Days before any proposed funding of LIBOR Loans. Each Lender shall fund to Agent such Lender's Pro Rata share of the Borrowing to the account specified by Agent in immediately available funds not later than 2:00 p.m. on the requested funding date, unless Agent's notice is received after the times provided above, in which event Lender shall fund its Pro Rata share by 11:00 a.m. on the next Business Day. Subject to its receipt of such amounts from Lenders, Agent shall disburse the proceeds of the Loans as directed by Borrower Agent. Unless Agent shall have received (in sufficient time to act) written notice from a Lender that it does not intend to fund its Pro Rata share of a Borrowing, Agent may, but shall not be obligated to, assume that such Lender has deposited or promptly will deposit its share with Agent, and Agent may, but shall not be obligated to, disburse a corresponding amount to Borrowers. If a Lender's share of any Borrowing or of any settlement pursuant to **Section 4.1.3(b)** is not received by Agent, then Borrowers agree to repay to Agent **on demand** the amount of such share, together with interest thereon from the date disbursed until repaid, at the rate applicable to the Borrowing.

#### 4.1.3 Swingline Loans; Settlement.

a. Agent may, but shall not be obligated to, advance Swingline Loans to Borrowers, up to an aggregate outstanding principal amount equal to the greater of (i) \$15,000,000 and (ii) 10% of the aggregate amount of the Commitments. Each Swingline Loan shall constitute a Loan for all purposes, except that payments thereon shall be made to Agent for its own account or for the account of Lenders, as applicable. The obligation of Borrowers to repay Swingline Loans shall be evidenced by the records of Agent and need not be evidenced by any promissory note.

b. To facilitate administration of the Loans, Lenders and Agent agree (which agreement is solely among them, and not for the benefit of or enforceable by any Borrower) that settlement among them with respect to Swingline Loans and other Loans may take place on a date determined from time to time by Agent, which shall occur at least once each week. On each settlement date, settlement shall be made with each Lender in accordance with the Settlement Report delivered by Agent to Lenders. Between settlement dates, Agent may in its discretion apply payments on Loans to Swingline Loans, regardless of any designation by Borrower or any provision herein to the contrary. Each Lender's obligation to make settlements with Agent is

absolute and unconditional, without offset, counterclaim or other defense, and whether or not the Commitments have terminated, an Overadvance exists or the conditions in **Section 6** are satisfied. If, due to an Insolvency Proceeding with respect to a Borrower or otherwise, any Swingline Loan may not be settled among Lenders hereunder, then each Lender shall be deemed to have purchased from Agent a Pro Rata participation in each unpaid Swingline Loan and shall transfer the amount of such participation to Agent, in immediately available funds, within one Business Day after Agent's request therefor. Agent acknowledges that it receives all Loan proceeds, and interest and fees owing to Lenders hereunder, in its capacity as Agent under this Agreement.

4.1.4 **Notices.** Each Borrower authorizes Agent and Lenders to extend, convert or continue Loans, effect selections of interest rates, and transfer funds to or on behalf of Borrowers based on telephonic or e-mailed instructions. Borrowers shall confirm each such request by prompt delivery to Agent of a Notice of Borrowing or Notice of Conversion/Continuation, if applicable, but if it differs in any material respect from the action taken by Agent or Lenders, the records of Agent and Lenders shall govern. Neither Agent nor any Lender shall have any liability for any loss suffered by a Borrower as a result of Agent or any Lender acting upon its understanding of telephonic or e-mailed instructions from a person believed in good faith by Agent or any Lender to be a person authorized to give such instructions on a Borrower's behalf.

4.2 **Defaulting Lender.** Agent may (but shall not be required to), in its discretion, retain any payments or other funds received by Agent that are to be provided to a Defaulting Lender hereunder, and may apply such funds to such Lender's defaulted obligations or readvance the funds to Borrowers in accordance with this Agreement. The failure of any Lender to fund a Loan, to make a payment in respect of LC Obligations or to otherwise perform its obligations hereunder shall not relieve any other Lender of its obligations, and no Lender shall be responsible for default by another Lender. Lenders and Agent agree (which agreement is solely among them, and not for the benefit of or enforceable by any Borrower) that, solely for purposes of determining a Defaulting Lender's right to vote (except as provided in **Section 15.1.1 (c)**) on matters relating to the Loan Documents and to share in payments, fees and Collateral proceeds thereunder, a Defaulting Lender shall not be deemed to be a "Lender" until all its defaulted obligations have been cured.

4.3 **Number and Amount of LIBOR Loans; Determination of Rate.** Each Borrowing of LIBOR Loans shall be in a minimum amount of \$5,000,000, plus any increment of \$1,000,000 in excess thereof. No more than seven Borrowings of LIBOR Loans may be outstanding at any time, and all LIBOR Loans having the same length and beginning date of their Interest Periods shall be aggregated together and considered one Borrowing for this purpose. Upon determining LIBOR for any Interest Period requested by Borrowers, Agent shall promptly notify Borrowers thereof by telephone or electronically and, if requested by Borrowers, shall confirm any telephonic notice in writing.

4.4 **Borrower Agent.** Each Borrower hereby designates Sanmina (in such capacity, "**Borrower Agent**") as its representative and agent for all purposes under the Loan Documents, including requests for Loans and Letters of Credit, designation of interest rates, delivery or receipt of communications, preparation and delivery of Borrowing Base and financial reports,

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receipt and payment of Obligations, requests for waivers, amendments or other accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with Agent, Issuing Bank or any Lender. Borrower Agent hereby accepts such appointment. Agent and Lenders shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any notice of borrowing) delivered by Borrower Agent on behalf of any Borrower. Agent and Lenders may give any notice or communication with a Borrower hereunder to Borrower Agent on behalf of such Borrower. Each of Agent, Issuing Bank and Lenders shall have the right, in its discretion, to deal exclusively with Borrower Agent for any or all purposes under the Loan Documents. Each Borrower agrees that any notice, election, communication, representation, agreement or undertaking made on its behalf by Borrower Agent shall be binding upon and enforceable against it.

4.5 **One Obligation.** The Loans, LC Obligations and other Obligations shall constitute one general obligation of Borrowers and (unless otherwise expressly provided in any Loan Document) shall be secured by Agent's Lien upon all Collateral.

4.6 **Effect of Termination.** On the effective date of any termination of the Commitments, all Obligations shall be immediately due and payable. All undertakings of Borrowers contained in the Loan Documents shall survive any termination, and Agent shall retain its Liens in the Collateral and all of its rights and remedies under the Loan Documents until Full Payment of the Obligations. Notwithstanding Full Payment of the Obligations, Agent shall not be required to terminate its Liens in any Collateral unless, with respect to any damages Agent may incur as a result of the dishonor or return of Payment Items applied to Obligations, Agent receives (a) a written agreement, executed by Borrowers and any Person whose advances are used in whole or in part to satisfy the Obligations, indemnifying Agent and Lenders from any such damages; or (b) such Cash Collateral as Agent, in its discretion, deems necessary to protect against any such damages. **Sections 2.2, 3.4, 3.7, 3.9, 5.4, 5.8, 5.9, 12, 15.2, 15.12** and this Section, and the obligation of each Obligor and Lender with respect to each indemnity given by it in any Loan Document, shall survive Full Payment of the Obligations and any release relating to this credit facility.

## **SECTION 5. PAYMENTS**

5.1 **General Payment Provisions.** All payments of Obligations shall be made in Dollars, without offset, counterclaim or defense of any kind, and in immediately available funds, not later than 12:00 noon on the due date. Any payment after such time shall be deemed made on the next Business Day. Any payment of a LIBOR Loan prior to the end of its Interest Period shall be accompanied by all amounts due under **Section 3.9**. Any prepayment of Loans shall be applied first to Base Rate Loans and then to LIBOR Loans.

5.2 **Repayment of Loans.** Loans shall be due and payable in full on the Revolver Termination Date, unless payment is sooner

required hereunder. Loans may be prepaid from time to time, without penalty or premium and without prior notice. All repayments and prepayments of Loans shall be applied on a Pro Rata basis. If any Asset Disposition includes the disposition of Collateral (i) outside the Ordinary Course of Business consistent with past practices or (ii) in connection with factoring or similar arrangements permitted under

**Section 10.2.5(e)** or **Section 10.2.5(f)** hereof, then, in each case, prior thereto (except in the case of any involuntary loss resulting from a casualty event or condemnation and in the case of transactions contemplated by the 2009 Corporate Reorganization) the Borrower Agent shall deliver to Agent a Borrowing Base Certificate giving effect to such Asset Disposition and if a Trigger Period exists at the time of such Disposition or as a result thereof the Net Proceeds of such Asset Disposition shall be applied to the Loans. Notwithstanding anything herein to the contrary, if an Overadvance exists, Borrowers shall, on the sooner of Agent's demand or the first Business Day after any Borrower has knowledge thereof, repay the outstanding Loans and, if necessary, Cash Collateralize any Letters of Credit, in an aggregate amount sufficient to reduce the principal balance of Loans to the lesser of the Borrowing Base or the Commitments.

5.3 Payment of Other Obligations. Obligations other than Loans, including LC Obligations and Extraordinary Expenses, shall be paid by Borrowers as provided in the Loan Documents or, if no payment date is specified, **on demand**.

5.4 Marshaling; Payments Set Aside. None of Agent or Lenders shall be under any obligation to marshal any assets in favor of any Obligor or against any Obligations. If any payment by or on behalf of Borrowers is made to Agent, Issuing Bank or any Lender, or Agent, Issuing Bank or any Lender exercises a right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by Agent, Issuing Bank or such Lender in its discretion) to be repaid to a trustee, receiver or any other Person, then to the extent of such recovery, the Obligation originally intended to be satisfied, and all Liens, rights and remedies relating thereto, shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred.

5.5 Post-Default Allocation of Payments.

5.5.1 Allocation. Notwithstanding anything herein to the contrary, during an Event of Default, monies to be applied to the Obligations, whether arising from payments by Obligor, realization on Collateral, setoff or otherwise, shall be allocated as follows:

- a. first, to all costs and expenses, including Extraordinary Expenses, owing to Agent;
- b. second, to all amounts owing to Agent on Swingline Loans;
- c. third, to all amounts owing to Issuing Bank on LC Obligations;
- d. fourth, to all Obligations constituting fees (excluding amounts relating to Bank Products);
- e. fifth, to all Obligations constituting interest (excluding amounts relating to Bank Products);
- f. sixth, to provide Cash Collateral for outstanding Letters of Credit;
- g. seventh, to all other Obligations, other than Bank Product Debt;

- h. eighth, to any Bank Product Debt that is subject in full to any reserve hereunder; and
- i. last, to any other Bank Product Debt.

Amounts shall be applied to each category of Obligations set forth above until Full Payment thereof and then to the next category. If amounts are insufficient to satisfy a category, they shall be applied on a pro rata basis among the Obligations in the category. Amounts distributed with respect to any Bank Product Debt shall be the lesser of the applicable Bank Product Amount last reported to Agent or the actual Bank Product Debt as calculated by the methodology reported to Agent for determining the amount due. Agent shall have no obligation to calculate the amount to be distributed with respect to any Bank Product Debt, but may rely upon written notice of the amount (setting forth a reasonably detailed calculation) from the Secured Party. In the absence of such notice, Agent may assume the amount to be distributed is the Bank Product Amount last reported to it. The allocations set forth in this Section are solely to determine the rights and priorities of Agent and Lenders as among themselves, and may be changed by agreement among them without the consent of any Obligor. This Section is not for the benefit of or enforceable by any Borrower.

5.5.2 **Erroneous Application.** Agent shall not be liable for any application of amounts made by it in good faith and, if any such application is subsequently determined to have been made in error, the sole recourse of any Lender or other Person to which such amount should have been made shall be to recover the amount from the Person that actually received it (and, if such amount was received by any Lender, such Lender hereby agrees to return it).

5.6 **Application of Payments**. The ledger balance in all Dominion Accounts as of the end of a Business Day shall be applied to the Obligations constituting principal, interest, fees and expenses at the beginning of the next Business Day or as soon thereafter as designated by Agent. If, as a result of such application, a credit balance exists, the balance shall not accrue interest in favor of Borrowers and shall be made available to Borrowers as long as no Default or Event of Default exists. Each Borrower irrevocably waives the right to direct the application of any payments or Collateral proceeds, and agrees that Agent shall have the continuing, exclusive right to apply and reapply same against the Obligations, in such manner as Agent deems advisable, notwithstanding any entry by Agent in its records.

5.7 **Loan Account; Account Stated**.

5.7.1 **Loan Account.** Agent shall maintain in accordance with its usual and customary practices an account or accounts ("Loan Account") evidencing the Debt of Borrowers resulting from each Loan or issuance of a Letter of Credit from time to time. Any failure of Agent to record anything in the Loan Account, or any error in doing so, shall not limit or otherwise affect the obligation of Borrowers to pay any amount owing hereunder. Agent may maintain a single Loan Account in the name of Borrower Agent, and each Borrower confirms that such arrangement shall have no effect on the joint and several character of its liability for the Obligations.



5.7.2 Entries Binding. Entries made in the Loan Account shall constitute presumptive evidence of the information contained therein. If any information contained in the Loan Account is provided to or inspected by any Person, then such information shall be conclusive and binding on such Person for all purposes absent manifest error, except to the extent such Person notifies Agent in writing within 30 days after receipt or inspection that specific information is subject to dispute.

5.7.3 Register. Agent, acting solely for this purpose as an agent of the Borrowers, also shall maintain a register for the recordation of the names and addresses of the Lenders and the principal amounts of the Loans owing to each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, Agent and the Lenders may treat each Person whose name is recorded in the Register as a Lender for all purposes of this Agreement, notwithstanding notice to the contrary. The register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

## 5.8 Taxes.

5.8.1 Payments Free of Taxes. All payments by Obligor of Obligations shall be free and clear of and without reduction for any Taxes. If Applicable Law requires any Obligor or Agent to withhold or deduct any Tax (including backup withholding or withholding Tax), the withholding or deduction shall be based on information provided pursuant to **Section 5.9** and Agent shall pay the amount withheld or deducted to the relevant Government Authority. If the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by Obligor shall be increased so that Agent, Lender or Issuing Bank, as applicable, receives an amount equal to the sum it would have received if no such withholding or deduction (including deductions applicable to additional sums payable under this Section) had been made. Without limiting the foregoing, Obligor shall timely pay all Other Taxes to the relevant Governmental Authorities.

5.8.2 Payment. Obligor shall indemnify, hold harmless and reimburse (within 10 days after demand therefor) Agent, Lenders and Issuing Bank for any Indemnified Taxes or Other Taxes (including Indemnified Taxes and Other Taxes attributable to amounts payable under this Section) withheld or deducted by any Obligor or Agent, or paid by Agent, any Lender or Issuing Bank, with respect to any Obligations, Letters of Credit or Loan Documents, whether or not such Taxes were properly asserted by the relevant Governmental Authority, and including all penalties, interest and reasonable expenses relating thereto. A certificate as to the amount of any such payment or liability delivered to Borrower Agent by Agent, or by a Lender or Issuing Bank (with a copy to Agent), shall be conclusive absent manifest error. As soon as practicable after any payment of Taxes by an Obligor, Borrower Agent shall deliver to Agent a receipt from the Governmental Authority or other evidence of payment satisfactory to Agent.

## 5.9 Lender Tax Information .

5.9.1 Status of Lenders. Each Lender shall deliver documentation and information to Agent and Borrower Agent, at the times reasonably requested by Agent or Borrower Agent, sufficient to permit Agent or Obligor to determine (a) whether or not

payments made with respect to Obligations are subject to Taxes, (b) if applicable, the required rate of withholding or deduction, and (c) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes for such payments or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction.

5.9.2 Documentation. If a Borrower is resident for tax purposes in the United States, any Lender that is a "United States person" within the meaning of section 7701(a)(30) of the Code shall deliver to Agent and Borrower Agent IRS Form W-9 or such other documentation or information prescribed by Applicable Law or reasonably requested by Agent or Borrower Agent to determine whether such Lender is subject to backup withholding or information reporting requirements. If any Foreign Lender is entitled to any exemption from or reduction of United States withholding tax for payments with respect to the Obligations, it shall deliver to Agent and Borrower Agent on or prior to the date on which it becomes a Lender hereunder (and from time to time thereafter upon the request of Agent or Borrower Agent, but only if such Foreign Lender is legally entitled to do so), (a) IRS Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States is a party; (b) IRS Form W-8ECI; (c) IRS Form W-8IMY and all required supporting documentation; (d) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, IRS Form W-8BEN and a certificate showing such Foreign Lender is not (i) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (ii) a "10 percent shareholder" of any Obligor within the meaning of section 881(c)(3)(B) of the Code, or (iii) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code; or (e) any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in withholding tax, together with such supplementary documentation necessary to allow Agent and Borrowers to determine the withholding or deduction required to be made.

5.9.3 Lender Obligations. Each Lender and Issuing Bank shall promptly notify Borrowers and Agent of any change in circumstances that would change any claimed exemption or reduction. Each Lender and Issuing Bank shall indemnify, hold harmless and reimburse (within 10 days after demand therefor) Borrowers and Agent for any Taxes, losses, claims, liabilities, penalties, interest and expenses (including reasonable attorneys' fees) incurred by or asserted against a Borrower or Agent by any Governmental Authority due to such Lender's or Issuing Bank's failure to deliver, or inaccuracy or deficiency in, any documentation required to be delivered by it pursuant to this Section. Each Lender and Issuing Bank authorizes Agent to set off any amounts due to Agent under this Section against any amounts payable to such Lender or Issuing Bank under any Loan Document.

5.9.4 If a Lender determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to Section 5.8, such Lender shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 5.8 with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of such Lender and without interest (other than any interest paid by the relevant governmental authority with respect to such refund), provided that the Borrower, upon the request of such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant governmental authority) to such Lender in the event such Lender is

required to repay such refund to such governmental authority. This Section 5.9.4 shall not be construed to require any Lender to make available its tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other person.

#### 5.10 Nature and Extent of Each Borrower's Liability.

5.10.1 **Joint and Several Liability.** Each Borrower agrees that it is jointly and severally liable for, and absolutely and unconditionally guarantees to Agent and Lenders the prompt payment and performance of, all Obligations and all agreements under the Loan Documents. Each Borrower agrees that its guaranty obligations hereunder constitute a continuing guaranty of payment and not of collection, that such obligations shall not be discharged until Full Payment of the Obligations, and that such obligations are absolute and unconditional, irrespective of (a) the genuineness, validity, regularity, enforceability, subordination or any future modification of, or change in, any Obligations or Loan Document, or any other document, instrument or agreement to which any Obligor is or may become a party or be bound; (b) the absence of any action to enforce this Agreement (including this Section) or any other Loan Document, or any waiver, consent or indulgence of any kind by Agent or any Lender with respect thereto; (c) the existence, value or condition of, or failure to perfect a Lien or to preserve rights against, any security or guaranty for the Obligations or any action, or the absence of any action, by Agent or any Lender in respect thereof (including the release of any security or guaranty); (d) the insolvency of any Obligor; (e) any election by Agent or any Lender in an Insolvency Proceeding for the application of Section 1111(b)(2) of the Bankruptcy Code; (f) any borrowing or grant of a Lien by any other Borrower, as debtor-in-possession under Section 364 of the Bankruptcy Code or otherwise; (g) the disallowance of any claims of Agent or any Lender against any Obligor for the repayment of any Obligations under Section 502 of the Bankruptcy Code or otherwise; or (h) any other action or circumstances that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, except Full Payment of all Obligations.

#### 5.10.2 **Waivers.**

a. Each Borrower expressly waives, to the extent permitted by law, all rights that it may have now or in the future under any statute, at common law, in equity or otherwise, to compel Agent or Lenders to marshal assets or to proceed against any Obligor, other Person or security for the payment or performance of any Obligations before, or as a condition to, proceeding against such Borrower. Each Borrower waives, to the extent permitted by law, all defenses available to a surety, guarantor or accommodation co-obligor other than Full Payment of all Obligations. It is agreed among each Borrower, Agent and Lenders that the provisions of this **Section 5.10** are of the essence of the transaction contemplated by the Loan Documents and that, but for such provisions, Agent and Lenders would decline to make Loans and issue Letters of Credit. Each Borrower acknowledges that its guaranty pursuant to this Section is necessary to the conduct and promotion of its business, and can be expected to benefit such business.

b. Agent and Lenders may, in their discretion, pursue such rights and remedies as they deem appropriate, including realization upon Collateral, without affecting any rights and remedies under this **Section 5.10**. If, in taking any action in connection with the exercise of any rights or remedies, Agent or any Lender shall forfeit any other rights or remedies,

including the right to enter a deficiency judgment against any Borrower or other Person, whether because of any Applicable Laws pertaining to “election of remedies” or otherwise, each Borrower consents to such action and waives, to the extent permitted by law, any claim based upon it, even if the action may result in loss of any rights of subrogation that any Borrower might otherwise have had. Any election of remedies that results in denial or impairment of the right of Agent or any Lender to seek a deficiency judgment against any Borrower shall not impair any other Borrower’s obligation to pay the full amount of the Obligations. Each Borrower waives, to the extent permitted by law, all rights and defenses arising out of an election of remedies, such as nonjudicial foreclosure with respect to any security for the Obligations, even though that election of remedies destroys such Borrower’s rights of subrogation against any other Person. Agent may bid all or a portion of the Obligations at any foreclosure or trustee’s sale or at any private sale, and the amount of such bid need not be paid by Agent but shall be credited against the Obligations. The amount of the successful bid at any such sale, whether Agent or any other Person is the successful bidder, shall be conclusively deemed to be the fair market value of the Collateral, and the difference between such bid amount and the remaining balance of the Obligations shall be conclusively deemed to be the amount of the Obligations guaranteed under this **Section 5.10**, notwithstanding that any present or future law or court decision may have the effect of reducing the amount of any deficiency claim to which Agent or any Lender might otherwise be entitled but for such bidding at any such sale.

5.10.3 Extent of Liability; Contribution.

a. Notwithstanding anything herein to the contrary, each Borrower’s liability under this **Section 5.10** shall be limited to the greater of (i) all amounts for which such Borrower is primarily liable, as described below, and (ii) such Borrower’s Allocable Amount.

b. If any Borrower makes a payment under this **Section 5.10** of any Obligations (other than amounts for which such Borrower is primarily liable) (a “Guarantor Payment”) that, taking into account all other Guarantor Payments previously or concurrently made by any other Borrower, exceeds the amount that such Borrower would otherwise have paid if each Borrower had paid the aggregate Obligations satisfied by such Guarantor Payments in the same proportion that such Borrower’s Allocable Amount bore to the total Allocable Amounts of all Borrowers, then such Borrower shall be entitled to receive contribution and indemnification payments from, and to be reimbursed by, each other Borrower for the amount of such excess, pro rata based upon their respective Allocable Amounts in effect immediately prior to such Guarantor Payment. The “Allocable Amount” for any Borrower shall be the maximum amount that could then be recovered from such Borrower under this **Section 5.10** without rendering such payment voidable under Section 548 of the Bankruptcy Code or under any applicable state fraudulent transfer or conveyance act, or similar statute or common law.

c. Nothing contained in this **Section 5.10** shall limit the liability of any Borrower to pay Loans made directly or indirectly to that Borrower (including Loans advanced to any other Borrower and then re-loaned or otherwise transferred to, or for the benefit of, such Borrower), LC Obligations relating to Letters of Credit issued to support such Borrower’s business, and all accrued interest, fees, expenses and other related Obligations with respect thereto, for which such Borrower shall be primarily liable for all purposes hereunder. Agent and Lenders shall have the right, at any time in their discretion, to condition Loans and Letters of

Credit upon a separate calculation of borrowing availability for each Borrower and to restrict the disbursement and use of such Loans and Letters of Credit to such Borrower.

5.10.4 Joint Enterprise. Each Borrower has requested that Agent and Lenders make this credit facility available to Borrowers on a combined basis, in order to finance Borrowers' business most efficiently and economically. Borrowers' business is a mutual and collective enterprise, and Borrowers believe that consolidation of their credit facility will enhance the borrowing power of each Borrower and ease the administration of their relationship with Lenders, all to the mutual advantage of Borrowers. Borrowers acknowledge and agree that Agent's and Lenders' willingness to extend credit to Borrowers and to administer the Collateral on a combined basis, as set forth herein, is done solely as an accommodation to Borrowers and at Borrowers' request.

## **SECTION 6. CONDITIONS PRECEDENT**

6.1 Conditions Precedent to Initial Loans . In addition to the conditions set forth in **Section 6.2** , Lenders shall not be required to fund any requested Loan, issue any Letter of Credit, or otherwise extend credit to Borrowers hereunder, until the date (" Closing Date ") that each of the following conditions has been satisfied:

- a. Notes shall have been executed by Borrowers and delivered to each Lender that requests issuance of a Note. Each other Loan Document to be entered into as of the Closing Date shall have been duly executed and delivered to Agent by each of the signatories thereto, and each Obligor shall be in compliance with all terms thereof.
- b. Agent shall have received, except as otherwise provided in this Agreement, (i) acknowledgments of all filings or recordations necessary to perfect its Liens in the Collateral, as well as UCC and Lien searches and other evidence satisfactory to Agent that such Liens are the only Liens upon the Collateral, except Permitted Liens and (ii) all Lien Waivers requested by Agent.
- c. Reserved.
- d. Agent shall have received certificates, in form and substance satisfactory to it, from a knowledgeable Senior Officer of each Obligor certifying that, after giving effect to the initial Loans and transactions hereunder, as of the Closing Date (i) such Obligor is Solvent; (ii) no Default or Event of Default exists; (iii) the representations and warranties set forth in **Section 9** are true and correct; and (iv) such Obligor has complied with all agreements and conditions to be satisfied by it under the Loan Documents as of the Closing Date (unless waived by Agent).
- e. Agent shall have received a certificate of a duly authorized officer of each Obligor, certifying (i) that attached copies of such Obligor's Organic Documents are true and complete, and in full force and effect, without amendment except as shown; (ii) that an attached copy of resolutions authorizing execution and delivery of the Loan Documents is true and complete, and that such resolutions are in full force and effect, were duly adopted, have not been amended, modified or revoked, and constitute all resolutions adopted with respect to this credit facility; and (iii) to the title, name and signature of each Person authorized to sign the Loan

Documents. Agent may conclusively rely on this certificate until it is otherwise notified by the applicable Obligor in writing.

- f. Agent shall have received a written opinion of Wilson Sonsini Goodrich & Rosati, P.C., as well as any local counsel to Obligors or Agent, in form and substance reasonably satisfactory to Agent.
- g. Agent shall have received copies of the charter documents of each Obligor, certified by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization. Agent shall have received good standing certificates for each Obligor, issued by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization.
- h. Agent shall have received copies of policies or certificates of insurance for the insurance policies carried by Obligors, all in compliance with the Loan Documents.
- i. Agent shall have completed its business, financial and legal due diligence of Obligors, including (i) completion and a roll-forward of its previous field examination, with results satisfactory to Agent; (ii) completion of the inventory appraisal conducted by Emerald Technology Valuations with results satisfactory to Agent; (iii) a satisfactory review of Sanmina's contracts with its customers; and (iv) a satisfactory review of the terms of Sanmina's ongoing legal entity rationalization program. Since September 29, 2007 there shall not have occurred any event or circumstance that had or could be reasonably expected, either individually or in the aggregate, to have a Material Adverse Effect.
- j. Obligors shall have paid all fees and expenses (including the reasonable fees and expenses of counsel (including any local counsel) for Agent) to be paid to Agent, the Lead Arrangers and Lenders on the Closing Date.
- k. Agent and the Lenders shall have received all documentation and other information required by regulatory authorities under applicable Anti-Terrorism Laws and "know your customer" rules and regulations.
- l. Reserved.
- m. There shall be no action, suit, investigation or proceeding pending or, to the knowledge of the Borrowers, threatened in writing in any court or before any arbitrator or Governmental Authority that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.
- n. Agent, Syndication Agent and the Lead Arrangers shall have received, in form and substance reasonably satisfactory to them, (a) financial projections of the Borrowers and their subsidiaries evidencing the ability of Sanmina and its Subsidiaries to comply with the financial covenant set forth in **Section 10.3** and (b) a summary of preliminary year-end results for the Fiscal Year ended September 27, 2008.
- o. Agent shall have received a "pay-off" letter in form and substance reasonably satisfactory to Agent with respect to the repayment in full and the termination of any

commitment to make extensions of credit under that certain Amended and Restated Credit and Guaranty Agreement dated December 16, 2005 among Sanmina, certain guarantors party thereto, certain lenders and financial institutions party thereto and Agent, as administrative agent (as amended, restated, supplemented or otherwise modified).

p. Agent shall have received a Borrowing Base Certificate prepared as of October 25, 2008. Upon giving effect to the initial funding of Loans and issuance of Letters of Credit, and the payment by Borrowers of all fees and expenses incurred in connection herewith, Availability shall be at least \$75,000,000.

6.2 Conditions Precedent to All Credit Extensions. Agent, Issuing Bank and Lenders shall not be required to fund any Loans, arrange for issuance of any Letters of Credit or grant any other accommodation to or for the benefit of Borrowers (in each case, subject to the last sentence of **Section 3.1.2(a)**), excluding the conversion or continuation of any Loan), unless the following conditions are satisfied:

- a. No Default or Event of Default shall exist at the time of, or result from, such funding, issuance or grant;
- b. The representations and warranties of each Obligor in the Loan Documents (i) that are not qualified by “materiality” shall be true and correct in all material respects on the date of, and upon giving effect to, such funding, issuance or grant and (ii) that are qualified by “materiality” shall be true and correct on and as of such date, except, in each case, to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (except if qualified by “materiality”, shall be true and correct) as of such earlier date;
- c. All conditions precedent in any other Loan Document shall be satisfied;
- d. The aggregate principal amount of all Loans and the aggregate undrawn amount of all Letters of Credit outstanding, after giving effect to the applicable Borrowing or issuance or renewal of a Letter of Credit, shall not exceed the Borrowing Base on such date; and
- e. With respect to issuance of a Letter of Credit, the LC Conditions shall be satisfied.

Each request (or deemed request) by Borrowers for funding of a Loan, issuance of a Letter of Credit or grant of an accommodation (in each case, subject to the last sentence of **Section 3.1.2(a)**), excluding the conversion or continuation of any Loan) shall constitute a representation by Borrowers that the foregoing conditions are satisfied on the date of such request and on the date of such funding, issuance or grant.

## **SECTION 7. COLLATERAL**

7.1 Grant of Security Interest. To secure the prompt payment and performance of all Obligations, each Obligor hereby grants to Agent, for the benefit of Secured Parties, a continuing security interest in and Lien upon the following Property, whether now owned or hereafter acquired, and wherever located:

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- a. all Accounts and all Supporting Obligations, Chattel Paper, Documents and Instruments in respect thereof or relating thereto;
  - b. all Deposit Accounts (except accounts used for collections for transactions permitted by **Section 10.2.5(e)** or **Section 10.2.5(f)**);
  - c. all Inventory;
  - d. the Pledged Securities;
  - e. all notes from a Canadian Obligor referred to in **Section 10.2.1(i)**;
  - f. all monies, whether or not in the possession or under the control of Agent, a Lender, or a bailee or Affiliate of Agent or a Lender, including any Cash Collateral;
  - g. all accessions to, substitutions for, and all replacements, products, and cash and non-cash Proceeds of the foregoing, including Proceeds of and unearned premiums with respect to insurance policies, and claims against any Person for loss, damage or destruction of any Collateral; and
  - h. all books and records (including customer lists, files, correspondence, tapes, computer programs, print-outs and computer records) pertaining to the foregoing.

### **7.2 Lien on Deposit Accounts; Cash Collateral.**

7.2.1 Deposit Accounts. To further secure the prompt payment and performance of all Obligations, each Obligor hereby grants to Agent, for the benefit of Secured Parties, a continuing security interest in and Lien upon all amounts credited to any Deposit Account of

such Obligor, including any sums in any blocked or lockbox accounts or in any accounts into which such sums are swept. Each Obligor hereby authorizes and directs each bank or other depository to deliver to Agent, upon request, all balances in any Deposit Account maintained by such Obligor, without inquiry into the authority or right of Agent to make such request. Agent may make any such request during a Trigger Period.

7.2.2 Cash Collateral. Any Cash Collateral may be invested, at Agent's discretion, in Cash Equivalents, but Agent shall have no duty to do so, regardless of any agreement or course of dealing with any Obligor, and shall have no responsibility for any investment or loss other than for a loss from an investment in other than Cash Equivalents. Each Obligor hereby grants to Agent, for the benefit of Secured Parties, a security interest in all Cash Collateral held from time to time and all proceeds thereof, as security for the Obligations, whether such Cash Collateral is held in a Cash Collateral Account or elsewhere. Agent may apply Cash Collateral to the payment of any Obligations, in such order as Agent may elect, as they become due and payable. Each Cash Collateral Account and all Cash Collateral shall be under the sole dominion and control of Agent. No Obligor or other Person claiming through or on behalf of any Obligor shall have any right to any Cash Collateral, until Full Payment of all Obligations or until such time as such Obligations are no longer required to be Cash-Collateralized, as determined by Agent in accordance with the terms hereof.



7.3 Other Collateral.

7.3.1 Certain After-Acquired Collateral. Subject to **Section 10.4.1**, Borrowers shall promptly notify Agent in writing if, after the Closing Date, any Obligor obtains any interest in any Collateral consisting of Deposit Accounts or the treasurer or assistant treasurer of Borrower Agent becomes aware of Collateral with a value in excess of \$5,000,000 consisting of Chattel Paper, Documents or Instruments, and, upon Agent's request, shall promptly take such actions as Agent deems appropriate to effect Agent's duly perfected, first priority Lien (subject to Permitted Liens referred to in **Section 10.2.2(a)**, **(c)**, **(d)**, **(f)**, **(g)**, **(i)**, **(u)**, **(v)**) upon such Collateral, including obtaining any appropriate possession, control agreement or Lien Waiver. If any Collateral is in the possession of a third party (other than Inventory in-transit), at Agent's request, Obligors shall obtain an acknowledgment that such third party holds the Collateral for the benefit of Agent.

7.3.2 Pledged Securities. Each Obligor hereby consents to the grant by each other Obligor of a security interest in and Lien upon all Pledged Securities of such Obligor to Agent and, without limiting the foregoing, consents to the transfer of any Pledged Securities to Agent or its nominee while an Event of Default exists and to the substitution of Agent or its nominee as a partner in any partnership or member in any limited liability company with all the rights and powers related thereto

7.4 No Assumption of Liability. The Lien on Collateral granted hereunder is given as security only and shall not subject Agent or any Lender to, or in any way modify, any obligation or liability of Obligors relating to any Collateral.

7.5 Further Assurances. Promptly upon request and except as otherwise provided herein, Obligors shall deliver such instruments, assignments, title certificates, or other documents or agreements, and shall take such actions, as Agent deems appropriate under Applicable Law to evidence or perfect its Lien on any Collateral, or otherwise to give effect to the intent of this Agreement; provided that unless reasonably requested by Agent, no Obligor shall be required to take any action to perfect the security interest in Pledged Securities under the laws of any jurisdiction outside of the United States of America. Each Obligor authorizes Agent to file any financing statement or similar Lien registration document that describes the Collateral in substantial conformance with the description in **Section 7.1**, and ratifies any action taken by Agent before the Closing Date to effect or perfect its Lien on any Collateral.

7.6 ULC Shares. Notwithstanding any provisions to the contrary contained in this Agreement or any other document or agreement among all or some of the parties hereto, each Obligor who has granted a security interest hereunder in shares or other equity interests (" **ULC Shares** ") of any unlimited company incorporated under the laws of the Province of Nova Scotia, Canada, unlimited liability company incorporated under the laws of the Province of British Columbia, Canada, unlimited liability corporation incorporated under the laws of the Province of Alberta, Canada or any other entity whose members or shareholders have liability comparable to that of members or shareholders of those entities (each a " **ULC** ") or is the sole registered and beneficial owner of all Pledged Securities which are ULC Shares and will remain so until such time as such ULC Shares are effectively transferred into the name of Agent, any other Lender or any other person on the books and records of the issuer of such pledged ULC Shares.

Accordingly, such Obligor shall be entitled to receive and retain for its own account any dividends, property or other distributions, if any, in respect of such ULC Shares (except insofar as the Obligor has granted a security interest in such dividends, property or other distributions, and any shares which are Pledged Securities shall be delivered to Agent to hold as Collateral hereunder) and shall have the right to vote such ULC Shares and to control the direction, management and policies of the issuer of such ULC Shares to the same extent as the Obligor would if such ULC Shares were not pledged to Agent pursuant hereto. Nothing in this Agreement or any other document or agreement among all or some of the parties hereto is intended to, and nothing in this Agreement, or any other document or agreement among all or some of the parties hereto shall constitute Agent, any other Lender or any person other than the Obligor a shareholder or member of a ULC for the purposes of the *Companies Act* (Nova Scotia) until such time as notice is given to the Obligor and further steps are taken thereunder so as to register Agent, or any other person as holder of Collateral which is ULC Shares. To the extent any provision hereof or of any other document or agreement would have the effect of constituting Agent, any other Lender, or any other person as a shareholder or member of a ULC for the purposes of the *Companies Act* (Nova Scotia) prior to such time, such provision shall be severed herefrom or therefrom and ineffective with respect to the Collateral which is ULC Shares without otherwise invalidating or rendering unenforceable this Agreement or such other agreement or invalidating or rendering unenforceable such provision insofar as it relates to Collateral which is not ULC Shares. Except upon the exercise of rights to sell or otherwise dispose of Pledged Collateral which is ULC Shares following the occurrence and during the continuance of an Event of Default, the Obligor shall not cause or permit, or enable any ULC in which it holds ULC Shares to cause or permit, Agent or any other Lender to: (a) be registered as a shareholder or member of such ULC; (b) have any notation entered in its favour in the share register of such ULC; (c) be held out as a shareholder or member of such ULC; (d) receive, directly or indirectly, any dividends, property or other distributions from such ULC by reason of Agent or any other Lender holding a security interest in such ULC; or (e) act as a shareholder or member of such ULC, or exercise any rights of a shareholder or member including the right to attend a meeting of, or to vote the shares of, such ULC.

## **SECTION 8. COLLATERAL ADMINISTRATION**

8.1 Borrowing Base Certificates. By the 18<sup>th</sup> day of each Fiscal Month, Borrower Agent shall deliver to Agent (and Agent shall promptly deliver same to Lenders) a Borrowing Base Certificate prepared as of the close of business of the previous month, and at such other times as Agent may reasonably request. All calculations of Availability in any Borrowing Base Certificate shall originally be made by Borrowers and certified by a Senior Officer, provided that Agent may from time to time review and adjust any such calculation (a) to reflect its reasonable estimate of declines in value of any Collateral, due to collections received in the Dominion Account or otherwise; and (b) to the extent the calculation is not made in accordance with this Agreement or does not accurately reflect the Availability Reserve.

### 8.2 Administration of Accounts.

8.2.1 Records and Schedules of Accounts. Each Obligor shall keep accurate and complete records of its Accounts, including all payments and collections thereon, and shall

submit to Agent sales, collection, reconciliation and other reports in form reasonably satisfactory to Agent, on such periodic basis as Agent may reasonably request (but in no more than monthly unless an Event of Default exists). Each Obligor shall also provide to Agent, on or before the 18<sup>th</sup> day of each month, a detailed aged trial balance of all of its Accounts as of the end of the preceding month, specifying each Account's Account Debtor name, address and amount. If Borrower Agent becomes aware that any of the forty largest Account Debtors (or any Controlling Affiliate of such Account Debtor) obligated under any Eligible Account (as determined by reference to the most recent Borrowing Base Certificate delivered pursuant to **Section 8.1**) commences an Insolvency Proceeding (or the controlling Affiliate thereof in the case of an Account Debtor that is a subsidiary), Borrower Agent shall notify Agent of such occurrence promptly (and in any event within two Business Days) after Borrower Agent has knowledge thereof.

8.2.2 Taxes. If an Account of any Obligor includes a charge for any Taxes, Agent is authorized, in its discretion, to pay the amount thereof to the proper taxing authority for the account of such Obligor and to charge Obligors therefor; provided, however, that neither Agent nor Lenders shall be liable for any Taxes that may be due from Obligors or with respect to any Collateral.

8.2.3 Account Verification. During any Trigger Period, Agent shall have the right at any time, in the name of Agent, any designee of Agent or any Obligor, to verify the validity, amount or any other matter relating to any Accounts of Obligors by mail, telephone or otherwise. Obligors shall cooperate fully with Agent in an effort to facilitate and promptly conclude any such verification process. Agent shall endeavor to give Borrower Agent prior notice of Agent's intention to conduct such verifications by telephone; provided that the failure by Agent to give such notice shall not limit the right of Agent to conduct such verifications.

8.2.4 Maintenance of Dominion Account. Each Borrower hereby agrees that during any Trigger Period each Lockbox Cash Collateral Account and each Proceeds Cash Collateral Account shall automatically be deemed a Dominion Account. Neither Agent nor Lenders assume any responsibility to Obligors for any lockbox arrangement or Dominion Account, including any claim of accord and satisfaction or release with respect to any Payment Items accepted by any bank.

8.2.5 Proceeds of Collateral. Obligors shall request in writing and otherwise take all necessary steps to ensure that all payments on Accounts constituting Collateral or otherwise relating to Collateral are made directly to a Lockbox Cash Collateral Account or a Proceeds Cash Collateral Account. If any Obligor or Subsidiary receives cash or Payment Items with respect to any Collateral, it shall hold same in trust for Agent and promptly (not later than the next Business Day) deposit same into a Cash Collateral Account (except that during a Trigger Period all such cash and Payment Items shall be held in trust and promptly deposited in a Dominion Account).

### 8.3 Administration of Inventory.

8.3.1 Records and Reports of Inventory. Each Obligor shall keep accurate and complete records of its Inventory and shall submit to Agent inventory and reconciliation reports

in form reasonably satisfactory to Agent, on such periodic basis as Agent may reasonably request (but no more than monthly unless an Event of Default exists). Each Obligor shall conduct a physical inventory at least once per calendar year (and on a more frequent basis if requested by Agent when an Event of Default exists) and periodic cycle counts consistent with historical practices, and shall provide to Agent upon request a report based on each such inventory and count promptly upon completion thereof, together with such supporting information as Agent may reasonably request. Upon reasonable prior notice, Agent may observe each physical count.

8.3.2 Returns of Inventory. No Obligor shall return any Inventory to a supplier, vendor or other Person, whether for cash, credit or otherwise, unless (a) such return is in the Ordinary Course of Business consistent with past practices; (b) no Default, Event of Default or Overadvance exists or would result therefrom; and (c) any payment received by an Obligor for a return is (i) promptly remitted to Agent for application to the Loans, if any are outstanding, or (ii) if no Loans are outstanding, promptly in a Cash Collateral Account (subject to **Section 8.2.5** ).

8.3.3 Acquisition, Sale and Maintenance. No Obligor shall acquire or accept any Inventory on consignment or approval, and shall take all steps to assure that all Inventory is produced in accordance with the FLSA. No Obligor shall sell any Inventory on consignment or approval or any other basis under which the customer may return or require an Obligor to repurchase such Inventory. Obligors shall use, store and maintain all Inventory with reasonable care and caution, in accordance in all material respects with applicable standards of any insurance and in conformity in all material respects with all Applicable Law, and shall make current rent payments (within applicable grace periods provided for in leases and unless such rent payment is being Properly Contested) at all locations where any Collateral is located.

8.4 Administration of Deposit Accounts . **Schedule 8.4** to the Disclosure Letter sets forth all Deposit Accounts maintained by Obligors, including all Dominion Accounts. Subject to **Section 10.4.1** , each Obligor shall take all actions necessary to establish Agent's control of each such Deposit Account (other than an account exclusively used for payroll, payroll or employment taxes or employee benefits, or an account containing not more than the Dollar Equivalent of \$10,000 at any time, cash collateral accounts permitted hereunder and accounts used for collections for transactions permitted by **Section 10.2.5(e)** or **Section 10.2.5(f)** ), including the execution of a Deposit Account Control Agreement with respect to such Account. Each Obligor shall be the sole account holder of each such Deposit Account and shall not allow any other Person (other than Agent or such financial institution where such Deposit Account is located) to have control over such Deposit Account or any Property deposited therein. Each Obligor shall promptly notify Agent of any opening or closing of a Deposit Account and, with the consent of Agent, will amend **Schedule 8.4** to the Disclosure Letter to reflect same.

#### 8.5 General Provisions .

8.5.1 Location of Collateral. All tangible items of Collateral, other than Inventory in transit, shall at all times be kept by Obligors at the business locations set forth in **Schedule 8.5.1** to the Disclosure Letter, except that Obligors may (a) make sales or other dispositions of Collateral in accordance with **Section 10.2.5** ; and (b) move Collateral to another location in the United States or Canada. Borrower Agent shall provide to Agent at the end of

each Fiscal Month or at such other time as requested by Agent a list of any locations to which tangible items of Collateral having a book value in excess of \$5,000,000, with respect to Collateral located in the United States, or \$100,000, with respect to Collateral located in Canada, have been moved to the extent such locations are not listed on **Schedule 8.5.1** to the Disclosure Letter or have not been previously notified to Agent pursuant to this **Section 8.5.1** .

**8.5.2 Insurance of Collateral; Condemnation Proceeds.**

a. Each Obligor shall maintain insurance with respect to the Collateral, covering casualty, hazard, theft, malicious mischief, flood and other risks, in amounts, with endorsements and with insurers (with a Best Rating of at least A7, unless otherwise approved by Agent) reasonably satisfactory to Agent (and Agent agrees that insurance in effect on the Closing Date is satisfactory). All proceeds with respect to the Collateral under each policy shall be payable to Agent to be applied as set forth in clause (b) below. From time to time upon request, Obligors shall deliver to Agent the originals or certified copies of its insurance policies. Unless Agent shall agree otherwise, each policy shall include satisfactory endorsements (i) showing Agent as additional insured or loss payee, as applicable; (ii) requiring 30 days prior written notice to Agent in the event of cancellation of the policy for any reason whatsoever; and (iii) specifying that the interest of Agent shall not be impaired or invalidated by any act or neglect of any Obligor or the owner of the Property, nor by the occupation of the premises for purposes more hazardous than are permitted by the policy. If any Obligor fails to provide and pay for any insurance, Agent may, at its option, but shall not be required to, procure the insurance and charge Obligors therefor. Each Obligor agrees to deliver to Agent, promptly as rendered, copies of all reports made to insurance companies for claims in excess of \$1,000,000. While no Event of Default exists, Obligors may settle, adjust or compromise any insurance claim, as long as the proceeds are delivered to Agent as required hereunder. If an Event of Default exists, only Agent shall be authorized to settle, adjust and compromise such claims.

b. Any proceeds of insurance covering the Collateral and any awards arising from condemnation or expropriation of any Collateral in each case exceeding \$1,000,000 shall be paid to Agent to be applied in accordance with the terms of **Section 5.2** . Any such proceeds or awards that relate to Inventory shall be applied to payment of the Loans, and then to any other Obligations outstanding, and then any remaining balance deposited in a Cash Collateral Account (subject to **Section 8.2.5** ).

c. Borrower Agent shall promptly provide written notice to Agent in the event a loss, theft, damage or destruction occurs with respect to any Collateral if the amount not covered by insurance exceeds the Dollar Equivalent of \$5,000,000.

**8.5.3 Protection of Collateral.** All expenses of protecting, storing, warehousing, insuring, handling, maintaining and shipping any Collateral, all Taxes payable with respect to any Collateral (including any sale thereof), and all other payments required to be made by Agent to any Person to realize upon any Collateral, shall be borne and paid by Borrowers. Agent shall not be liable or responsible in any way for the safekeeping of any Collateral (except for reasonable care of Collateral in Agent's actual possession), for any loss or damage thereto (except for reasonable care in its custody while Collateral is in Agent's actual possession), for

any diminution in the value thereof, or for any act or default of any warehouseman, carrier, forwarding agency or other Person whatsoever, but the same shall be at Obligors' sole risk.

8.5.4 Defense of Title to Collateral. Each Obligor shall at all times defend its title to Collateral and Agent's Liens therein against all Persons, claims and demands whatsoever, except Permitted Liens.

8.5.5 Proceeds of Collateral. Each Obligor shall at all times maintain in Cash Collateral Accounts all proceeds of Collateral and not commingle such proceeds with proceeds of accounts collected under the Receivables Purchase Facility or any other factoring or securitization arrangement except during any "ramp-up" period with respect to the Receivables Purchase Facility or any other factoring or securitization arrangement if and only if Agent, the relevant Borrowers and the agent under such facility or arrangement have entered into an agreement in respect of any commingled proceeds substantially in the form of **Exhibit E**.

8.6 Power of Attorney. Each Obligor hereby irrevocably constitutes and appoints Agent (and all Persons designated by Agent) as such Obligor's true and lawful attorney (and agent-in-fact) for the purposes provided in this Section. Agent, or Agent's designee, may, without notice and in either its or an Obligor's name, but at the cost and expense of Borrowers:

a. Endorse an Obligor's name on any Payment Item or other proceeds of Collateral (including proceeds of insurance) that come into Agent's possession or control; and

b. During an Event of Default, (i) notify any Account Debtors of the assignment of their Accounts, demand and enforce payment of Accounts by legal proceedings or otherwise, and generally exercise any rights and remedies with respect to Accounts; (ii) settle, adjust, modify, compromise, discharge or release any Accounts or other Collateral, or any legal proceedings brought to collect Accounts or Collateral; (iii) sell or assign any Accounts and other Collateral upon such terms, for such amounts and at such times as Agent deems advisable; (iv) collect, liquidate and receive balances in Deposit Accounts or investment accounts, and take control, in any manner, of proceeds of Collateral; (v) prepare, file and sign an Obligor's name to a proof of claim or other document in a bankruptcy of an Account Debtor, or to any notice, assignment or satisfaction of Lien or similar document; (vi) receive, open and dispose of mail addressed to an Obligor, and notify postal authorities to deliver any such mail to an address designated by Agent; (vii) endorse any Chattel Paper, Document, Instrument, bill of lading, or other document or agreement relating to any Accounts, Inventory or other Collateral; (viii) use an Obligor's stationery and sign its name to verifications of Accounts and notices to Account Debtors; (ix) use information contained in any data processing, electronic or information systems relating to Collateral; (x) make and adjust claims under insurance policies; (xi) take any action as may be necessary or appropriate to obtain payment under any letter of credit, banker's acceptance or other instrument for which an Obligor is a beneficiary; and (xii) take all other actions as Agent deems appropriate to fulfill any Obligor's obligations under the Loan Documents.

## SECTION 9. REPRESENTATIONS AND WARRANTIES

9.1 General Representations and Warranties. To induce Agent and Lenders to enter into this Agreement and to make available the Commitments, Loans and Letters of Credit, each Obligor represents and warrants that:

9.1.1 Organization and Qualification. Each Borrower and Subsidiary is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Each Borrower and Subsidiary is duly qualified, authorized to do business and in good standing as a foreign corporation, company or other entity, as applicable, in each jurisdiction where failure to be so qualified could reasonably be expected to have a Material Adverse Effect.

9.1.2 Power and Authority. Each Obligor is duly authorized to execute, deliver and perform the Loan Documents to which it is a party. The execution, delivery and performance of the Loan Documents to which it is a party have been duly authorized by all necessary action on the part of each Obligor, and do not (a) require any consent or approval of any holders of Equity Interests of any Obligor, other than those already obtained; (b) contravene the Organic Documents of any Obligor; (c) violate or cause a default under any Applicable Law or Material Contract; or (d) result in or require the imposition of any Lien (other than Permitted Liens) on any Property of any Obligor.

9.1.3 Enforceability. Each Loan Document is a legal, valid and binding obligation of each Obligor party thereto, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and by equitable principles (regardless of whether enforcement is sought in equity or at law).

9.1.4 Capital Structure. **Schedule 9.1.4** to the Disclosure Letter shows as of the Closing Date, for each Borrower and Subsidiary, its name, its jurisdiction of organization, its issued Equity Interests, the holders of its Equity Interests (excluding Sanmina), and all agreements binding on such holders with respect to their Equity Interests. Each Borrower has good title to its Equity Interests in its direct Subsidiaries, subject only to Agent's Lien, and all such Equity Interests are duly issued, fully paid and non-assessable (to the extent applicable). There are no outstanding purchase options, warrants, subscription rights, agreements to issue or sell, convertible interests, phantom rights or powers of attorney (other than those granted under any Loan Document or pursuant to any agreement, document or instrument related to Debt permitted under **Section 10.2.1**) relating to Equity Interests of any Borrower (other than Sanmina) or Subsidiary.

9.1.5 Title to Properties; Priority of Liens. Each Borrower and Subsidiary has good and marketable title to (or valid leasehold interests in) all of its Real Estate, and good title to all of its personal Property, including all Property reflected in any financial statements delivered to Agent or Lenders, in each case free of Liens except Permitted Liens. Each Borrower and Subsidiary has paid and discharged all lawful claims that, if unpaid, could become a Lien on its Properties, other than Permitted Liens. All Liens of Agent in the Collateral are duly perfected (except to the extent that perfection with respect to such Collateral is not required under any

Loan Document), first priority Liens, subject only to Permitted Liens that are expressly allowed to have priority over Agent's Liens.

9.1.6 Accounts. Agent may rely, in determining which Accounts are Eligible Accounts, on all statements and representations made by Obligors with respect thereto. Obligors warrant, with respect to each Account at the time it is shown as an Eligible Account in a Borrowing Base Certificate, that:

- a. it is genuine and in all respects what it purports to be, and is not evidenced by a judgment;
- b. it arises out of a completed, *bona fide* sale and delivery of goods in the Ordinary Course of Business consistent with past practices, and substantially in accordance with any purchase order, contract or other document relating thereto;
- c. it is for a sum certain, maturing as stated in the invoice covering such sale, a copy of which has been furnished or is available to Agent on request;
- d. it is not subject to any offset, Lien (other than Agent's Lien or Permitted Liens referred to in **Section 10.2.2(a)** , **(c)** , **(d)** , **(g)** and **Section 10.2.1(s)** ), deduction, defense, dispute, counterclaim or other adverse condition except as arising in the Ordinary Course of Business and disclosed to Agent or as contemplated by clause (f) below; and it is absolutely owing by the Account Debtor, without contingency in any respect;
- e. no purchase order, agreement, document or Applicable Law restricts grants of security interests in such Account to Agent (unless under Applicable Law the restriction is ineffective), and the applicable Borrower is the sole payee or remittance party shown on the invoice;
- f. no extension, compromise, settlement, modification, credit, deduction or return has been authorized with respect to the Account, except discounts or allowances granted in the Ordinary Course of Business consistent with past practices for prompt payment that are reflected on the face of the invoice related thereto and in the reports submitted to Agent hereunder; and
- g. to the best of Obligors' knowledge, (i) there are no facts or circumstances that are reasonably likely to impair the enforceability or collectibility of such Account; (ii) the Account Debtor had the capacity to contract when the Account arose, continues to meet the applicable Obligor's customary credit standards, is Solvent, is not contemplating or subject to an Insolvency Proceeding, and has not failed, or suspended or ceased doing business; and (iii) there are no proceedings or actions threatened in writing or pending against any Account Debtor that could reasonably be expected to have a material adverse effect on the Account Debtor's financial condition.

9.1.7 Financial Statements. The consolidated balance sheets, and related statements of income, cash flow and shareholder's equity, of Sanmina and its Subsidiaries that have been and are hereafter delivered to Agent and Lenders, are prepared in accordance with GAAP (subject to changes from audit and year end adjustments and the absence of footnotes in



the case of unaudited financial statements and the absence of amortization charges in the case of monthly financial statements delivered pursuant to **Section 6.1** ), and fairly present in all material respects the financial positions and results of operations of Sanmina and its Subsidiaries at the dates and for the periods indicated. All projections delivered from time to time by Borrowers to Agent and Lenders have been prepared in good faith, based on reasonable assumptions in light of the circumstances at such time (it being understood that projections are not to be viewed as facts and that actual results during the period or periods covered by the projections may differ from the projections and that such differences may be material). Since September 29, 2007, there has been no change in the condition, financial or otherwise, of Sanmina and its Subsidiaries, taken as a whole, that could reasonably be expected to have a Material Adverse Effect. Each Obligor is Solvent.

9.1.8 Surety Obligations. No Borrower or Subsidiary is obligated as surety or indemnitor under any bond or other contract that assures payment or performance of any obligation of any Person, except as permitted hereunder.

9.1.9 Taxes. Each Borrower and Subsidiary has filed all material federal, state, provincial, territorial, municipal, local and foreign tax returns and other reports that it is required by law to file, and has paid and remitted, or made provision for the payment and remittance of, all its material Taxes that are due and payable, except to the extent being Properly Contested; provided that for the purposes of this **Section 9.1.9** , any such Taxes, tax returns or other reports required to be filed, paid or remitted under Applicable Law in Canada shall be deemed material. The provision for Taxes on the books of each Borrower and Subsidiary has been established in accordance with GAAP for all years not closed by applicable statutes, and for its current Fiscal Year.

9.1.10 Brokers. There are no brokerage commissions, finder's fees or investment banking fees payable in connection with any transactions contemplated by the Loan Documents.

9.1.11 Intellectual Property. Each Borrower and Subsidiary owns or has the lawful right to use all material Intellectual Property necessary for the conduct of its business, without conflict in any material respect with any Intellectual Property rights of others. There is no pending or, to any Borrower's knowledge, threatened (in writing) Intellectual Property Claim with respect to any Borrower, any Subsidiary or any of their Property (including any Intellectual Property) which could reasonably be expected to have a Material Adverse Effect. Except as disclosed on **Schedule 9.1.11** to the Disclosure Letter, no Borrower or Subsidiary pays or owes any Royalty or other compensation to any Person in excess of \$1,500,000 annually with respect to any License of Intellectual Property.

9.1.12 Governmental Approvals. Each Borrower and Subsidiary has, is in compliance with, and is in good standing with respect to, all material Governmental Approvals necessary to conduct its business and to own, lease and operate its Properties. All necessary import, export or other licenses, permits or certificates for the import or handling of any goods or other Collateral have been procured and are in effect, and Borrowers and Subsidiaries have complied with all foreign and domestic laws with respect to the shipment and importation of any goods or Collateral, except where noncompliance could not reasonably be expected to have a Material Adverse Effect.

70

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9.1.13 Compliance with Laws. Each Borrower and Subsidiary has duly complied, and its Properties and business operations are in compliance, in all respects with all Applicable Law, except where noncompliance could not reasonably be expected to have a Material Adverse Effect. There have been no citations, notices or orders of material noncompliance issued to any Borrower or Subsidiary under any Applicable Law. No Inventory has been produced in violation of the FLSA.

9.1.14 Compliance with Environmental Laws. Except as disclosed on **Schedule 9.1.14** to the Disclosure Letter, to the best of their knowledge no Borrower's or Subsidiary's past or present operations, Real Estate or other Properties are subject to any federal, state, provincial, territorial, local or foreign investigation to determine whether any material remedial action is needed to address any environmental pollution, hazardous material or environmental clean-up. No Borrower or Subsidiary has received any Environmental Notice in respect of any material properties of such Person. No Borrower or Subsidiary has any material contingent liability with respect to any Environmental Release, environmental pollution or hazardous material on any Real Estate now or previously owned, leased or operated by it.

9.1.15 Burdensome Contracts. No Borrower or Subsidiary is a party or subject to any contract, agreement or charter restriction that could reasonably be expected to have a Material Adverse Effect. No Borrower or Subsidiary is party or subject to any Restrictive Agreement, except as shown on **Schedule 9.1.15** to the Disclosure Letter or as permitted by **Section 10.2.13** . No such Restrictive Agreement prohibits the execution, delivery or performance of any Loan Document by an Obligor.

9.1.16 Litigation. Except as shown on **Schedule 9.1.16** to the Disclosure Letter, there are no proceedings or investigations pending or, to any Borrower's knowledge, threatened in writing against any Borrower or Subsidiary, or any of their businesses, operations or Properties, that (a) relate to any Loan Documents or transactions contemplated thereby; or (b) could reasonably be expected to have a Material Adverse Effect. No Borrower or Subsidiary is in default with respect to any order, injunction or judgment of any Governmental Authority binding on it.

9.1.17 No Defaults. No event or circumstance has occurred or exists that constitutes a Default or Event of Default. No Borrower or Subsidiary is in material default, and no event or circumstance has occurred or exists that with the passage of time or giving of notice would constitute a material default, under any Material Contract. To the best of their knowledge, there is no basis upon which any party (other than a Borrower or Subsidiary) could terminate a Material Contract prior to its scheduled termination date.

9.1.18 ERISA. Except as disclosed on **Schedule 9.1.18** to the Disclosure Letter:

a. Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code, and other federal and state laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto and, to the knowledge of Borrowers, nothing has occurred which would prevent, or cause the loss of, such qualification. Each Obligor and ERISA Affiliate has made all required

contributions to each Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

b. There are no pending or, to the knowledge of Borrowers, threatened (in writing) claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted in or could reasonably be expected to have a Material Adverse Effect.

c. (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) no Obligor or ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) no Obligor or ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) no Obligor or ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA.

d. With respect to any Foreign Plan, (i) all employer and employee contributions required by law or by the terms of the Foreign Plan have been made, or, if applicable, accrued, in accordance with normal accounting practices; (ii) the fair market value of the assets of each funded Foreign Plan, the liability of each insurer for any Foreign Plan funded through insurance, or the book reserve established for any Foreign Plan, together with any accrued contributions, is sufficient to procure or provide for the accrued benefit obligations with respect to all current and former participants in such Foreign Plan according to the actuarial assumptions and valuations most recently used to account for such obligations in accordance with applicable generally accepted accounting principles; and (iii) it has been registered as required and has been maintained in good standing with applicable regulatory authorities.

e. (i) The Canadian Subsidiaries have no Canadian Plan other than those listed on **Schedule 9.1.18** to the Disclosure Letter, and all monthly and other payments in respect of such Canadian Plans which are pension plans (on account of contributions, special contributions or unfunded liability or solvency deficiencies) or otherwise are accurately set forth in **Schedule 9.1.18** to the Disclosure Letter. No Canadian Plan has been terminated or partially terminated or is insolvent or in reorganization, nor have any proceedings been instituted to terminate, in whole or in part, or reorganize any Canadian Plan.

(ii) No Canadian Subsidiary has ceased to participate (in whole or in part) as a participating employer in any Canadian Plan which is a pension plan or has withdrawn from any Canadian Plan which is a pension plan in a complete or partial withdrawal, nor has a condition occurred which if continued would result in a complete or partial withdrawal.

(iii) No Canadian Subsidiary has any unfunded liability on windup or withdrawal liability, including contingent withdrawal or windup liability, to any Canadian Plan or any solvency deficiency in respect of any Canadian Plan.

(iv) No Canadian Subsidiary has any unfunded liability on windup or any liability in respect of any Canadian Plan (including to the FSCO) other than for required insurance premiums or contributions or remittances which have been paid, contributed and remitted when due.

(v) The Canadian Subsidiaries have made all contributions to their Canadian Plans required by law or the terms thereof to be made by them when due, and they are not in arrears in the payment of any contribution, payment, remittance or assessment or in default in filing any reports, returns, statements, and similar documents in respect of the Canadian Plans required to be made or paid by them pursuant to any Canadian Plan, any law, act, regulation, directive or order or any employment, union, pension, deferred profit sharing, benefit, bonus or other similar agreement or arrangement.

(vi) No Canadian Subsidiary is liable or, to the best of the Borrowers' knowledge, alleged to be liable, to any employee or former employee, director or former director, officer or former officer or other Person resulting from any violation or alleged violation of any Canadian Plan, any fiduciary duty, any law or agreement in relation to any Canadian Plan or has any unfunded pension or like obligations or solvency deficiency (including any past service or experience deficiency funding liabilities), other than accrued obligations not yet due, for which it has made full provision in its books and records.

(vii) All vacation pay, bonuses, salaries and wages, to the extent accruing due, are properly reflected in the Canadian Subsidiaries' books and records.

(viii) Without limiting the foregoing, all of the Canadian Subsidiaries' Canadian Plans are duly registered where required by, and are in compliance and good standing in all material respects under, all applicable laws, acts, statutes, regulations, orders, directives and agreements, including, without limitation, the Income Tax Act (Canada), the *Supplemental Pension Plans Act* (Québec) and the *Pension Benefits Act* (Ontario), any successor legislation thereto, and other Applicable Laws of any jurisdiction.

(ix) No Canadian Subsidiary has made any application for a funding waiver or extension of any amortization period in respect of any Canadian Plan.

(x) There has been no prohibited transaction or violation of any fiduciary responsibilities with respect to any Canadian Plan.

(xi) There are no outstanding or pending or threatened (in writing) investigations, claims, suits or proceedings in respect of any Canadian Plans (including to assert rights or claims to benefits) that could give rise to a Material Adverse Effect.

9.1.19 Trade Relations. There exists no actual or threatened (in writing) termination, limitation or modification of any business relationship between any Borrower or Subsidiary and any customer or supplier, or any group of customers or suppliers, who individually or in the aggregate are material to the business of such Borrower or Subsidiary. There exists no condition or circumstance that could reasonably be expected to impair the ability of any Borrower or Subsidiary to conduct its business at any time hereafter in substantially the same manner as conducted on the Closing Date.

9.1.20 Labor Relations. Except as described on **Schedule 9.1.20** to the Disclosure Letter, as of the Closing Date no Borrower or Subsidiary is party to or bound by any collective bargaining agreement, management agreement or consulting agreement. Except as described on **Schedule 9.1.20** to the Disclosure Letter, there are no material grievances, disputes or controversies with any union or other organization of any Borrower's or Subsidiary's employees, or, to any Borrower's knowledge, any asserted or threatened (in writing) strikes, work stoppages or demands for collective bargaining.

9.1.21 Payable Practices. No Borrower or Subsidiary has made any material change in its historical accounts payable practices from those in effect on the Closing Date.

9.1.22 Not a Regulated Entity. No Obligor is (a) an "investment company" or a "person directly or indirectly controlled by or acting on behalf of an investment company" within the meaning of the Investment Company Act of 1940; or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any public utilities code or any other Applicable Law regarding its authority to incur Borrowed Money.

9.1.23 Margin Stock. No Borrower or Subsidiary is engaged, principally or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No Loan proceeds or Letters of Credit will be used by Borrowers to purchase or carry, or to reduce or refinance any Debt incurred to purchase or carry, any Margin Stock or for any related purpose governed by Regulations T, U or X of the Board of Governors.

9.1.24 Insurance. The insurance coverage of the Obligors as in effect on the Closing Date complies with the requirements of **Section 8.5.2** and is outlined as to carrier, policy number, expiration date, type, amount and deductibles on **Schedule 9.1.24** to the Disclosure Letter.

9.1.25 Senior Indebtedness. The Obligations (to the extent they fall within the definition of "Senior Debt" in the applicable Senior Subordinated Indenture) are hereby designated as "Designated Senior Debt" for purposes of and as defined in each Senior Subordinated Indenture. Sanmina has taken all actions necessary for the Obligations (to the extent they fall within the definition of "Senior Debt" in the applicable Senior Subordinated Indenture) to constitute "Senior Debt" and "Designated Senior Debt" for the purposes of and as defined in each Senior Subordinated Indenture.

9.2 Complete Disclosure. No Loan Document, when taken as a whole with the other Loan Documents and together with Sanmina's filings with the Securities and Exchange Commission, contains any untrue statement of a material fact, nor fails to disclose any material fact necessary to make the statements contained therein not materially misleading. There is no fact or circumstance that any Obligor has failed to disclose to Agent in writing or that is not disclosed in Sanmina's filings with the Securities and Exchange Commission that could reasonably be expected to have a Material Adverse Effect.

## SECTION 10. COVENANTS AND CONTINUING AGREEMENTS

10.1 **Affirmative Covenants.** As long as any Commitments are outstanding and until Full Payment of the Obligations, each Borrower shall, and shall cause each Subsidiary to:

### 10.1.1 Inspections; Appraisals.

a. Permit Agent from time to time, subject (except when a Default or Event of Default exists) to reasonable notice and normal business hours, to visit and inspect the Properties of any Borrower or Subsidiary for the purpose of conducting an annual (or more frequently at Agent's discretion) field audit (which field audit shall include the right to inspect, audit and make extracts from any Borrower's or Subsidiary's books and records, and discuss with its officers, employees, agents, advisors and independent accountants such Borrower's or Subsidiary's business, financial condition, assets, prospects and results of operations). Lenders may participate in any such visit or inspection, at their own expense. Neither Agent nor any Lender shall have any duty to any Borrower to make any inspection, nor to share any results of any inspection, appraisal or report with any Borrower. Borrowers acknowledge that all inspections, appraisals and reports are prepared by Agent and Lenders for their purposes, and Borrowers shall not be entitled to rely upon them. Notwithstanding anything to the contrary herein, no Borrower or Subsidiary will be required to disclose, permit the inspection, examination or making of extracts, or discussion of, any document, information or other matter that (i) constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to Agent (or its designated representative) is then prohibited by Applicable Law or any agreement binding on such Borrower or any Subsidiary which agreement was not entered into in contemplation of this Agreement and does not apply to the Collateral or (iii) is subject to attorney-client or similar privilege or constitutes attorney work product.

b. Reimburse Agent for all reasonable charges, costs and expenses of Agent in connection with (i) examinations of any Obligor's books and records or any other financial or Collateral matters as Agent deems appropriate, up to three times per Loan Year; and (ii) appraisals of Inventory up to three times per Loan Year; provided, however, that if an examination or appraisal is initiated during the existence of a Default or Event of Default, all reasonable charges, costs and expenses therefor shall be reimbursed by Borrowers without regard to such limits. Subject to and without limiting the foregoing, Borrowers specifically agree to pay Agent's then standard charges for each day that an employee of Agent or its Affiliates is engaged in any examination activities, and shall pay the standard charges of Agent's internal appraisal group. This Section shall not be construed to limit Agent's right to conduct examinations or to obtain appraisals at any time in its discretion, nor to use third parties for such purposes.

10.1.2 **Financial and Other Information.** Keep adequate records and books of account with respect to its business activities, in which proper entries are made that are sufficient to prepare financial statements in accordance with GAAP; and furnish to Agent and Lenders:

a. as soon as available, and in any event within 90 days after the end of each Fiscal Year, balance sheets as of the end of such Fiscal Year and the related statements of income, cash flow and stockholders' equity for such Fiscal Year, on consolidated basis for Sanmina and its Subsidiaries, which consolidated statements shall be audited and certified

(without qualification as to going concern or scope of audit and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of Sanmina and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP and that the audit by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards in the United States) by a firm of independent certified public accountants of recognized standing selected by Sanmina and reasonably acceptable to Agent (it being understood that KPMG LLP is acceptable to Agent), and shall set forth in comparative form corresponding figures for the preceding Fiscal Year;

b. (i) as soon as available, and in any event within 45 days after the end of each of the first three Fiscal Quarters in any Fiscal Year, unaudited balance sheets as of the end of such Fiscal Quarter and the related statements of income, cash flow and stockholder's equity for such Fiscal Quarter and for the portion of the Fiscal Year then elapsed, on consolidated basis for Sanmina and its Subsidiaries, setting forth in comparative form corresponding figures for the preceding Fiscal Year and certified by the chief financial officer of Borrower Agent as prepared in accordance with GAAP and fairly presenting in all material respects the financial position and results of operations for Sanmina and its Subsidiaries for such Fiscal Quarter and period, subject to normal year-end adjustments and the absence of footnotes and (ii) as soon as available, and in any event within 45 days after the end of each Fiscal Quarter in any Fiscal Year, a written summary (by account debtor) of the accounts sold in such Fiscal Quarter in connection with the Receivables Purchase Facility;

c. concurrently with delivery of financial statements under clauses (a) and (b) above, or more frequently if requested by Agent while a Default or Event of Default exists, a Compliance Certificate executed by the chief financial officer or treasurer of Borrower Agent;

d. concurrently with delivery of financial statements under clause (a) above, copies of all management letters and other material reports submitted to Borrowers by their accountants in connection with such financial statements;

e. not later than 30 days after the end of each Fiscal Year, projections of Sanmina's consolidated balance sheets, results of operations, cash flow and Availability for the next Fiscal Year, quarter by quarter;

f. at Agent's request, a listing of each Obligor's trade payables, specifying the trade creditor and balance due, in form and substance reasonably satisfactory to Agent;

g. promptly after the sending or filing thereof, copies of any proxy statements, financial statements or reports that any Obligor has made generally available to its shareholders; and copies of any regular, periodic and special reports or registration statements or prospectuses that any Obligor files with the Securities and Exchange Commission (it being understood that any Current Report on 8-K report filed with the Securities and Exchange Commission shall be furnished to Agent only) or any other Governmental Authority, or any securities exchange (excluding listing applications and other routine reports filed with any securities exchange);

h. such other reports and information (financial or otherwise) as Agent may request from time to time in connection with any Collateral or any Borrower's, Subsidiary's or other Obligor's financial condition or business.

Documents required to be delivered pursuant to **Section 10.1.2(a)**, **Section 10.1.2 (b)** or **Section 10.1.2(g)** (to the extent such documents are included in materials otherwise filed with the Securities and Exchange Commission) may be delivered electronically, shall be deemed to have been delivered on the date on which such documents are posted on Borrower Agent's behalf on an Internet or intranet website, if any, to which each Lender and Agent have access (whether a commercial, third-party website or whether sponsored by Agent); provided that Borrower Agent shall notify Agent (by telecopier or electronic mail) of the posting of any such documents and shall deliver paper copies of such documents to (i) Agent and (ii) any Lender that requests such paper copies.

10.1.3 Notices. Notify Agent (for distribution to the Lenders) in writing, promptly after a Borrower's obtaining knowledge thereof, of any of the following that affects an Obligor: (a) the non-frivolous threat in writing or commencement of any proceeding or investigation, whether or not covered by insurance, that if adversely determined could reasonably be expected to have a Material Adverse Effect; (b) any pending or threatened labor dispute, strike or walkout, or the expiration of any material labor contract, in each case involving employees of an Obligor or any of its Subsidiaries; (c) any default under or termination (other than at the end of its term in accordance with such Material Contract) of a Material Contract; (d) the existence of any Default or Event of Default; (e) any judgment in an amount exceeding \$10,000,000; (f) the assertion of any Intellectual Property Claim, if an adverse resolution could reasonably be expected to have a Material Adverse Effect; (g) any violation or asserted violation of any Applicable Law (including ERISA, OSHA, FLSA, or any Environmental Laws), if an adverse resolution could reasonably be expected to have a Material Adverse Effect; (h) the occurrence of any ERISA Event in an amount exceeding \$10,000,000 or similar occurrence in respect of a Canadian Plan; or (i) the discharge of or any withdrawal or resignation by Borrowers' independent accountants .

10.1.4 Landlord and Storage Agreements. Upon request, provide Agent with copies of all agreements from time to time in effect between an Obligor and any landlord, warehouseman, processor, shipper, bailee or other Person that owns any premises at which any Collateral may be kept or that otherwise may possess or handle any Collateral.

10.1.5 Compliance with Laws. Comply with all Applicable Laws, including ERISA, Environmental Laws, FLSA, OSHA, Anti-Terrorism Laws, and laws regarding collection, payment and remittance of Taxes, and maintain all Governmental Approvals necessary to the ownership of its Properties or conduct of its business, unless failure to comply (other than failure to comply with applicable Anti-Terrorism Laws) or maintain could not reasonably be expected to have a Material Adverse Effect.

10.1.6 Taxes. Pay, remit and discharge all material Taxes prior to the date on which they become delinquent or penalties attach, unless such Taxes are being Properly Contested; provided that Taxes that are determined to have been due as a result of a subsequent audit notwithstanding a good faith determination by the Obligors that such Taxes were not



payable at the time such Taxes are determined to have been due shall not be deemed to be delinquent for purposes of this **Section 10.1.6** so long as such Taxes are paid and discharged promptly following the auditor's determination that the Taxes were due, unless such determination is being Properly Contested and, provided, further, that for the purposes of this **Section 10.1.6**, all Taxes required to be paid, remitted or discharged under Applicable Law in Canada shall be deemed material.

10.1.7 Insurance. In addition to the insurance required hereunder with respect to Collateral, maintain insurance with insurers (with a Best Rating of at least A7, unless otherwise approved by Agent, which approval shall not be unreasonably withheld, delayed or conditioned) reasonably satisfactory to Agent, (a) with respect to the Properties and business of Borrowers and Subsidiaries of such type (including product liability, workers' compensation, larceny, embezzlement, or other criminal misappropriation insurance), in such amounts, and with such coverages and deductibles as are customary for companies similarly situated; and (b) business interruption insurance in such amounts, and with such coverages and deductibles as are customary for companies similarly situated.

10.1.8 Licenses. Keep each material License affecting any Collateral (including the manufacture, distribution or disposition of Inventory) or any other material Property of Borrowers and Subsidiaries in full force and effect; promptly notify Agent of any material modification to any such License, or entry into any new material License; pay all Royalties when due except for Royalties being properly contested; and notify Agent of any default or breach asserted by any Person to have occurred under any material License.

10.1.9 Future Subsidiaries.

a. Promptly notify Agent upon any Person becoming a Subsidiary and, if such Person is a Domestic Subsidiary (other than an Insignificant Subsidiary or a Person otherwise excluded from the definition of Guarantor), cause it to guaranty the Obligations in a manner satisfactory to Agent by executing and delivering the Joinder Agreement attached hereto as **Exhibit D** and such other documents, instruments and agreements reasonably requested by Agent and to take such other actions as Agent shall require to evidence and perfect a Lien in favor of Agent (for the benefit of Secured Parties) on all Collateral of such Person, including delivery of such legal opinions, in form and substance reasonably satisfactory to Agent, as it shall deem appropriate. At the Borrower Agent's request, any Subsidiary referred to herein can be designated a Borrower rather than a Guarantor as provided in the Joinder Agreement. No Property of any Subsidiary referred to herein shall be permitted to be included in the Borrowing Base until Agent has received and approved, in its Credit Judgment, (A) a collateral examination or audit with respect to such Property, including an appraisal by an independent appraisal firm reasonably acceptable to Agent, (B) all UCC, PPSA or other search results necessary to confirm Agent's first priority Lien (subject to Liens permitted with respect to Eligible Accounts and Eligible Inventory by the respective definition thereof) on all of such Property, and (C) such customary certificates (including a solvency certificate), resolutions, financial statements, legal opinions, and other documentation as Agent may reasonably request (including as required by **Sections 10.1.1** and **10.1.11**).

b. If, at any time and from time to time after the Closing Date, any Subsidiary that is not an Obligor because it is an Insignificant Subsidiary (i) ceases to be an Insignificant Subsidiary as of the end of the most recently ended Fiscal Quarter or (ii) is requested in writing by the Borrower Agent to be an Obligor under the Loan Documents, such Subsidiary shall become an Obligor pursuant to the terms hereof, and the Borrower Agent and the other Obligor shall, not later than forty-five (45) days after the end of such Fiscal Quarter, cause such Subsidiary to become an Obligor and to execute all applicable documents in respect thereof as required by clause (a) above.

10.1.10 Existence. Except as otherwise permitted hereunder, each Obligor will, and will cause each of its Subsidiaries to, at all times preserve and keep in full force and effect its existence and all rights and franchises, licenses and permits material to its business; provided, no Obligor or any of its Subsidiaries shall be required to preserve any such existence, right or franchise, licenses and permits if the preservation thereof is no longer desirable in the conduct of the business of such Person and that the loss thereof is not disadvantageous in any material respect to such Person or to Lenders.

10.1.11 Further Assurances. At any time or from time to time upon the request of Agent, each Obligor will, at its expense, promptly execute, acknowledge and deliver such further documents and do such other acts and things as Agent may reasonably request in order to effect fully the purposes of the Loan Documents. In furtherance and not in limitation of the foregoing, each Obligor shall take such actions as Agent may reasonably request from time to time to ensure that the Obligations are guaranteed by the Guarantors and are secured by the Collateral of the Borrowers and the Guarantors. Notwithstanding anything to the contrary contained herein, if an Event of Default has occurred and is continuing, Agent shall have the right to require any Obligor to execute and deliver documentation, consents, authorizations, approvals and orders in form and substance reasonably satisfactory to Agent and as Agent shall deem necessary to grant to Agent, for the benefit of the Secured Parties, a valid and perfected first priority lien on any Collateral not otherwise required hereunder, except to the extent such requirements are prohibited by other agreements binding on such Obligor or illegal under Applicable Law, and no reasonable alternative structure can be devised having substantially the same effect as such actions that would not be prohibited or illegal under Applicable Law.

10.1.12 Payment of Obligations. Pay and discharge as the same shall become due and payable, all its material obligations and liabilities, including all lawful material claims which, if unpaid, would by law become a Lien upon its Property unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves to the extent required in accordance with GAAP are being maintained by such Borrower or such Subsidiary.

10.1.13 Maintenance of Properties. Borrower Agent shall and shall cause each of its Subsidiaries to: (a) maintain, preserve and protect all of their respective material Properties and Equipment necessary to the operation of their respective businesses in good working order and condition, ordinary wear and tear excepted; and (b) make all necessary repairs thereto and renewals and replacements thereof; in each of the foregoing clauses (a) and (b), except where the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

10.1.14 Canadian Plans. The Borrowers shall cause each of its and their Subsidiaries' Canadian Plans to be duly qualified and administered in all respects in compliance with, as applicable, the *Supplemental Pension Plans Act* (Québec) and the *Pension Benefits Act* (Ontario) and all other Applicable Laws (including regulations, orders and directives), and the terms of the Canadian Plans and any agreements relating thereto. The Borrowers shall ensure that it and its Canadian Subsidiaries:

- a. have no unfunded, solvency, or deficiency on windup liability and no accumulated funding deficiency (whether or not waived), or any amount of unfunded benefit liabilities in respect of any Canadian Plan, including any Canadian Plan to be established and administered by it or them;
- b. all amounts required to be paid by it or them are paid when due;
- c. no liability upon it or them or Lien on any of its or their Property arises or exists in respect of any Canadian Plan;
- d. make all required contributions to any Canadian Plan when due;
- e. not engage in a prohibited transaction or violation of the fiduciary responsibility rules with respect to any Canadian Plan that could reasonably be expected to result in liability; and
- f. has no Lien on any of its or their property that arises or exists in respect of any Canadian Plan.

10.2 Negative Covenants. As long as any Commitments are outstanding and until Payment in Full of the Obligations, each Borrower shall not, and shall cause each Subsidiary not to:

10.2.1 Permitted Debt. Create, incur, guarantee or suffer to exist any Borrowed Money, except:

- a. the Obligations;
- b. Subordinated Debt;
- c. Permitted Purchase Money Debt;
- d. Borrowed Money (other than the Obligations and Permitted Purchase Money Debt), but only to the extent outstanding on the Closing Date, listed on **Schedule 10.2.1** to the Disclosure Letter (and other non-material Debt of Borrowers or any Subsidiary existing on the Closing Date in an aggregate principal amount not to exceed \$5,000,000) and not satisfied with proceeds of the initial Loans;
- e. Hedging Agreements entered into by an Obligor or Subsidiary;

80

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f. Debt that is in existence when a Person becomes a Subsidiary or that is secured by an asset when acquired by a Borrower or Subsidiary, as long as such Debt was not incurred in contemplation of such Person becoming a Subsidiary or such acquisition, and does not exceed \$50,000,000 in the aggregate principal amount at any time outstanding;

- g. Permitted Contingent Obligations;
- h. Refinancing Debt as long as each Refinancing Condition is satisfied;

i. (i) Intercompany Debt of any Obligor payable to another Obligor or a Foreign Subsidiary, provided that, simultaneously with the incurrence of such Debt, Sanmina shall cause (A) all such Intercompany Debt to be unsecured, and in the case of Intercompany Debt owed to a Borrower from a Canadian Obligor, subject to a perfected first priority Lien pursuant to the terms hereof, and (B) all such Intercompany Debt of any Obligor to be subordinated in right of payment to the payment in full of the Obligations pursuant to the terms of the Interco Subordination Agreement; provided further, that such Intercompany Debt owed by a Canadian Obligor to any other Obligor shall be evidenced by a note in form and substance reasonably satisfactory to Agent and the payee thereunder shall promptly endorse and deliver the same to Agent; (ii) Intercompany Debt of any Foreign Subsidiary payable to any Obligor, provided, that (a) the aggregate outstanding principal amount of such Debt made or extended at a time when the Availability Conditions are not met shall not exceed the Dollar Equivalent of \$50,000,000 (it being understood that there shall be no limit on the aggregate principal amount of any such Debt made or extended at a time when the Availability Conditions are met), and (b) simultaneously with the incurrence of such Debt Sanmina shall cause all such Intercompany Debt to be unsecured, and subject to a perfected first priority Lien pursuant to the terms hereof; provided further, that such Intercompany Debt (excluding any such Intercompany Debt that is outstanding on the Closing Date) shall be evidenced by a loan agreement or a note, and if evidenced by a note, the payee thereunder shall promptly endorse and deliver the same to Agent; (iii) Intercompany Debt of any Foreign Subsidiary payable to any other Foreign Subsidiary; and (iv) Intercompany Debt outstanding on the date hereof provided that all such Intercompany Debt of any Obligor shall be subordinated in right of payment to the payment in full of the Obligations pursuant to the terms of the Interco Subordination Agreement;

j. guaranties in the Ordinary Course of Business of the obligations owed to or of suppliers, customers, franchisees and licensees of Sanmina and its Subsidiaries;

k. (i) unsecured guaranties by an Obligor of Debt of an Obligor or guaranties by a Subsidiary of Debt of Sanmina or an Obligor with respect, in each case, to Debt otherwise permitted to be incurred pursuant to this **Section 10.2.1** , (ii) unsecured guaranties by an Obligor of Debt of Foreign Subsidiaries (A) which Debt of Foreign Subsidiaries exists on the Closing Date and is listed on **Schedule 10.2.1** to the Disclosure Letter and (B) Debt in an aggregate principal amount not to exceed at any time outstanding the Dollar Equivalent of \$50,000,000 in the case of Debt incurred after the Closing Date, and (iii) guaranties by any Foreign Subsidiary of Debt of any other Foreign Subsidiary permitted to be incurred pursuant to this **Section 10.2.1** ;

l. Debt with respect to Capital Leases entered into after the Closing Date in an aggregate principal amount not to exceed at any time outstanding the Dollar Equivalent of

\$75,000,000 plus any amount permitted by and not utilized pursuant to **Section 10.2.1(c)** , but in no event shall the aggregate outstanding principal amount of Debt under this **Section 10.2.1(l)** and **Section 10.2.1(c)** exceed at any time the Dollar Equivalent of \$150,000,000 provided that the sum of the amount of Debt of Foreign Subsidiaries under either such **Section** guaranteed by an Obligor and the amount of Debt under **Section 10.2.1(i)(ii)** shall not exceed the Dollar Equivalent of \$150,000,000;

m. non-recourse (other than certain limited, customary provisions for recourse) Debt secured by the Corporate Head Office Campus in a principal amount not to exceed the greater of (a) the Dollar Equivalent of \$75,000,000 and (b) the fair market value of the Corporate Head Office Campus;

n. Debt of Foreign Subsidiaries in an aggregate principal amount not to exceed at any time 20% of Consolidated Tangible Foreign Assets;

o. reimbursement obligations in respect of letters of credit, bank guaranties and banker's acceptances in an aggregate face amount not to exceed the Dollar Equivalent of \$50,000,000 at any time;

p. customary indemnification obligations pursuant to factoring or similar arrangements permitted under **Section 10.2.5 (e)** or **Section 10.2.5(f)** hereof;

q. Debt (including guaranties) incurred pursuant to Foreign Securitization Facilities, the Receivables Purchase Facility or any other factoring or similar arrangement permitted under **Section 10.2.5(e)** or **Section 10.2.5(f)** ;

r. Debt incurred by Sanmina or any Subsidiary arising from agreements providing for indemnification, adjustment of purchase price or similar obligations, or from guaranties or letters of credit, surety bonds or performance bonds securing the performance of Sanmina or any such Subsidiary pursuant to such agreements, in connection with Permitted Acquisitions or permitted dispositions of any business, assets or Subsidiary of Sanmina or any of its Subsidiaries; and

s. Debt of Obligors or any Subsidiary to any person other than an Obligor or a Subsidiary that is not included in any of the preceding clauses of this Section, provided that such Debt is on terms otherwise satisfactory to Agent, has no scheduled amortization payments or mandatory prepayments or redemptions (other than as a result of an event of default thereunder or a change of control) prior to 91 days after the Revolver Termination Date and, if the Fixed Charge Coverage Ratio as of the end of the Fiscal Quarter immediately preceding the incurrence of such Debt and after giving pro forma effect thereto is less than or equal to 1.50 : 1.00, the outstanding principal amount incurred under this subclause (s) does not exceed the Dollar Equivalent of \$250,000,000 in the aggregate at any time (it being understood that such \$250,000,000 aggregate limit shall not apply to Debt incurred under this subclause (s) at a time when such Fixed Charge Coverage Ratio on a pro forma basis after giving effect thereto is greater than 1.50 : 1.00); provided further any such Debt secured by a Lien on the Collateral is subordinated to the Liens granted hereunder on terms satisfactory to Agent and is subject to an intercreditor agreement in form and substance satisfactory to Agent (including (i) provisions

providing that any Lien on the Collateral in respect of such Debt be on a “silent second” basis as is customary in asset-based lending transactions and (ii) customary intercreditor standstill and payment blockage provisions); and provided, further, that such Debt may have a maturity date prior to the Revolver Termination Date so long as at least 90 days prior to such maturity date, such Debt is repaid, redeemed, defeased or refinanced or on such 90th day, reserved for under the Borrowing Base.

10.2.2 Permitted Liens. Create or suffer to exist any Lien upon any of its Property, except the following (collectively, “Permitted Liens”):

- a. Liens in favor of Agent;
- b. Purchase Money Liens securing Permitted Purchase Money Debt and Liens securing Debt permitted under **Section 10.2.1(l)** ;
- c. Liens for Taxes not yet due or being Properly Contested;
- d. statutory, common law or contractual Liens of landlords, creditor depository institutions or institutions holding securities accounts (including rights of set-off or similar rights and remedies), carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by law (other than Liens for Taxes or imposed under ERISA or under Applicable Law governing Canadian Plans) arising in the Ordinary Course of Business, but only if (i) payment of the obligations secured thereby is not yet due or is being Properly Contested, and (ii) such Liens do not materially impair the value or use of the Property or materially impair operation of the business of any Borrower or Subsidiary;
- e. Liens incurred or deposits made in the Ordinary Course of Business (consistent with past practices) to secure the performance of tenders, bids, leases, contracts (except those relating to Borrowed Money), statutory obligations and other similar obligations, or arising as a result of progress payments under government contracts or arising in connection with grants from any Governmental Authority;
- f. Liens arising in the Ordinary Course of Business that are subject to Lien Waivers;
- g. Liens arising by virtue of a judgment or judicial order against any Borrower or Subsidiary, or any Property of a Borrower not constituting an Event of Default under **Section 11.1(g)** , provided that such Liens are (i) in existence for less than 20 days or being Properly Contested, and (ii) at all times junior to Agent’s Liens;
- h. easements, rights-of-way, servitudes, restrictions, covenants or other agreements of record, and other similar charges or encumbrances on Real Estate, that do not secure any monetary obligation and do not interfere in any material respect with the Ordinary Course of Business consistent with past practices;
- i. Liens of a collecting bank on Payment Items in the course of collection;

- j. any interest or title of a lessor or sublessor under any lease of real estate not prohibited hereby;
- k. Liens solely on any cash earnest money deposits made by Sanmina or any of its Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;
- l. purported Liens evidenced by the filing of precautionary UCC or PPSA financing statements relating solely to operating leases of personal property entered into in the Ordinary Course of Business consistent with past practices;
- m. Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;
- n. any zoning or similar law or right reserved to or vested in any governmental office or agency to control or regulate the use of any real property;
- o. licenses or sublicenses of patents, trademarks, copyrights and other Intellectual Property rights granted by Sanmina or any of its Subsidiaries in the Ordinary Course of Business consistent with past practices and not interfering in any material respect with the ordinary conduct of the business of Sanmina or such Subsidiary;
- p. Liens described in **Schedule 10.2.2** to the Disclosure Letter (or other non-material Liens of Sanmina and its Subsidiaries existing on the Closing Date and not described in such Schedule securing obligations in an aggregate principal amount not to exceed at any time the Dollar Equivalent of \$2,000,000) and any renewals or extensions thereof, provided that the property covered thereby is not increased and any renewal or extension of the obligations secured or benefited thereby constitutes Refinancing Debt that satisfies each Refinancing Condition;
- q. Liens securing Debt permitted pursuant to **Section 10.2.1(m)** and **10.2.1(s)** ; provided , any such Lien securing Debt permitted pursuant to **Section 10.2.1(m)** shall encumber only the Corporate Head Office Campus and such other property relating thereto as is normally described in a mortgage or deed of trust;
- r. Liens encumbering assets of Foreign Subsidiaries securing Debt permitted pursuant to **Section 10.2.1(n)** or other obligations not prohibited hereby in an aggregate amount not to exceed at any time 20% of Consolidated Tangible Foreign Assets;
- s. Liens consisting of pledges of cash collateral to secure letters of credit, bank guarantees and banker's acceptances in an aggregate amount permitted under **Section 10.2.1(o)** ;
- t. Liens on Property at the time Sanmina or any Subsidiary acquired such Property in a transaction permitted by **Section 10.2.4** , including any acquisition by means of a merger, amalgamation or consolidation with or into Sanmina or any Subsidiary; provided , however, that such Lien may not extend to any other Property of Sanmina or any Subsidiary; provided further that such Liens shall not have been created in anticipation of or in connection

with the transaction or series of transactions pursuant to which such Property was acquired by Sanmina or any Subsidiary;

u. Liens on the Property of a Person existing at the time such Person becomes a Subsidiary of Sanmina in a transaction permitted by **Section 10.2.4** ; provided , however that any such Lien may not extend to any other Property of Sanmina or any other Subsidiary that is not a direct Subsidiary of such Person; provided further that any such Lien was not created in anticipation of or in connection with the transaction or series of transactions pursuant to which such Person became a Subsidiary of Sanmina;

v. Liens on specific items of inventory or other goods and the proceeds thereof securing such Person's obligations in respect of bankers' acceptances issued or credited for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods;

w. Liens arising under consignment or similar arrangements for the sale of goods in the Ordinary Course of Business consistent with past practices;

x. Liens on insurance proceeds securing the payment of financed insurance premiums;

y. leases or subleases granted to others in the Ordinary Course of Business consistent with past practices which do not interfere in any material respect with the business operations of Sanmina and its Subsidiaries taken as a whole;

z. customary Liens granted in favor of a trustee to secure fees and other amounts owing to such trustee under an indenture or other agreement pursuant to which Debt permitted by **Section 10.2.1** is issued;

aa. other Liens on assets, other than the Collateral, securing Debt or other obligations in an aggregate amount not to exceed the Dollar Equivalent of \$100,000,000 at any time outstanding;

bb. the interest of the lenders in the receivables and Related Assets of the Securitization Subsidiary under the Receivables Purchase Facility, the Lien of the Securitization Subsidiary on the receivables and Related Assets contributed to it and the interest of a purchaser (or an agent for such purchaser) of receivables and Related Assets sold pursuant to any securitization or other factoring or similar arrangement referred to in **Section 10.2.5(e)** or **Section 10.2.5(f)** acquired pursuant to, or any Lien on the assets of a Securitization Subsidiary granted in connection with, such other factoring or similar arrangement, and Liens granted pursuant to Foreign Securitization Facilities or other factoring or similar arrangement referred to in **Section 10.2.5(e)** or **Section 10.2.5(f)** ;

cc. Liens in respect of deposit accounts for the collection of receivables (and Related Assets) sold pursuant to **Section 10.2.5(e)** or **Section 10.2.5(f)** ;

dd. existing Liens shown on **Schedule 10.2.2** (and any renewals or extensions thereof, which if such renewal or extension is in connection with Debt constituting Refinancing



Debt, such Debt incurred in accordance with the Refinancing Conditions, provided that the property covered thereby is not increased); and

ee. deposits made (and the Liens thereon) in the Ordinary Course of Business in connection with workers' compensation, unemployment insurance and other types of social security.

10.2.3 Distributions; Upstream Payments.

a. Declare or make any Distributions, other than:

- i. Distributions, if at the time thereof the Availability Conditions are satisfied;
- ii. Upstream Payments;
- iii. Acquisitions of Equity Interests of Sanmina in connection with the exercise of stock options, restricted stock units or stock appreciation rights by way of cashless exercise or in connection with the satisfaction of withholding tax obligations;
- iv. Purchases of fractional shares of the Equity Interests of Sanmina arising out of stock dividends, splits or combinations or business combinations;
- v. So long as no Default or Event of Default has occurred and is continuing or would result therefrom, purchase, repurchase, redeem, defease, acquire or retire for value (i) Equity Interests of Sanmina or any of its Subsidiaries from any officer, director, employee or consultant of Sanmina or its Subsidiaries in an aggregate amount not to exceed the Dollar Equivalent of \$5,000,000 during any year and (ii) any non-cash rights distributed in connection with any stockholder rights plan;
- vi. So long as no Default or Event of Default has occurred and is continuing or would result therefrom, repurchases of common stock of Sanmina in an amount not to exceed \$25,000,000 over the term of this Agreement; and
- vii. In connection with any acquisition permitted pursuant to **Section 10.2.4**, (i) receive or accept the return to Sanmina or any of its Subsidiaries of Equity Interests of Sanmina or any of its Subsidiaries constituting a portion of the purchase price consideration in settlement of indemnification claims or (ii) make payments or distributions to dissenting stockholders pursuant to applicable law.

b. Create or suffer to exist any encumbrance or restriction on the ability of a Subsidiary to make any Upstream Payment, except for restrictions (i) under the Loan Documents, (ii) permitted under **Section 10.2.13**, (iii) under Applicable Law or (iv) in effect on the Closing Date as shown on **Schedule 9.1.15** to the Disclosure Letter.

10.2.4 Restricted Investments. Make any Restricted Investment, except:

a. (i) equity investments in Foreign Subsidiaries to the minimum extent required to comply with the local minimum capitalization requirements of foreign jurisdictions, (ii) conversions of Intercompany Debt existing on the Closing Date into equity, and (iii) and conversions of Intercompany Debt incurred after the Closing Date between any Obligor and Foreign Subsidiary into equity not to exceed the Dollar Equivalent of \$50,000,000 in the aggregate;

b. (i) equity Investments owned as of the Closing Date in any Subsidiary, (ii) Investments made after the Closing Date by an Obligor in any other Obligor, (iii) Investments made after the Closing Date (but exclusive of any conversions of Debt into equity) by any Obligor in any Foreign Subsidiary in an amount in excess of the Dollar Equivalent of \$50,000,000 and (iv) Investments from a Foreign Subsidiary into another Foreign Subsidiary;

c. Investments (i) in any Equity Interests or other securities received in satisfaction or partial satisfaction thereof from financially troubled account debtors (whether in connection with a foreclosure, bankruptcy, workout or otherwise) and (ii) deposits, prepayments and other credits to suppliers made in the Ordinary Course of Business;

d. Consolidated Capital Expenditures;

e. loans and advances to employees of Sanmina and its Subsidiaries made in the Ordinary Course of Business and to the extent permitted by the Sarbanes-Oxley Act of 2002, in an aggregate principal amount at any time outstanding not to exceed the Dollar Equivalent of \$10,000,000 in the aggregate;

f. Intercompany Debt permitted by **Section 10.2.1**;

g. Investments described in **Schedule 10.2.4** to the Disclosure Letter;

h. Sanmina and its Subsidiaries may enter into and perform their respective obligations under Hedging Agreements entered into in the Ordinary Course of Business consistent with past practices;

i. Investments consisting of extensions of credit in the nature of accounts receivable, prepaid royalties or expenses or notes receivable arising from the sale or lease of goods or services in the Ordinary Course of Business consistent with past practices, or performance or similar deposits arising in the Ordinary Course of Business consistent with past practices, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary to prevent or limit loss;

j. guaranty and similar obligations permitted by **Section 10.2.1**;

k. commission, entertainment, relocation, payroll, travel, indemnity and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;

l. Investments acquired by Sanmina or any of its Subsidiaries (i) in exchange for any other Investments held by Sanmina or such Subsidiary in connection with or as a result of bankruptcy, workout, reorganization or recapitalization of the issuer of such Investment or (ii) as result of a foreclosure by Sanmina or any of its Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

m. Investments representing the non-cash portion of the consideration received in connection with any issuance of Equity Interests by a Subsidiary of Sanmina to Sanmina or to another Subsidiary of Sanmina not prohibited hereunder;

n. equity Investments in Subsidiaries solely to the extent made to effect transactions permitted pursuant to **Section 10.2.5(d)** hereof;

o. Investments in connection with Foreign Securitization Facilities, the Receivables Purchase Facility and any other securitization or factoring or similar arrangement referred to in **Section 10.2.5(e)** or **Section 10.2.5(f)** ;

p. Investments constituting or made in connection with Permitted Acquisitions; provided that either (A)(i) the Availability Conditions are satisfied at the time thereof and (ii) the Fixed Charge Coverage Ratio as of the end of the Fiscal Quarter immediately preceding such Investment and after giving pro forma effect thereto is not less than 1.00 : 1.00, or (B) in respect of any such Investment in an aggregate amount not exceeding the Dollar Equivalent of \$125,000,000 and provided that no Default or Event of Default exists or would result from such Investment, average Availability both on the date thereof and after giving effect to such Investment on a pro forma basis during the preceding 30 day period is greater than or equal to \$125,000,000 (provided that up to \$75,000,000 of such Availability requirement can be satisfied to the extent of the amount of cash or Cash Equivalents held in a Cash Collateral Account at Agent); and provided, further, that for the purposes of this **Section 10.2.4(p)** , the \$125,000,000 Availability threshold shall be increased to \$175,000,000 if the amount of the Commitments is increased pursuant to **Section 2.3** to an aggregate amount in excess of \$250,000,000;

q. Permitted Pool Transactions;

r. Investments in connection with the 2009 Corporate Reorganization; and

s. (i) so long as the Availability Conditions are satisfied, any Investments and (ii) if the Availability Conditions are not satisfied, Investments, other than Investments by any Borrower or Designated Canadian Guarantor in any non-Obligor Subsidiary of Sanmina, in an aggregate amount not to exceed at any time the Dollar Equivalent of \$25,000,000.

Provided , in no event shall any Obligor make any Investment which results in or facilitates in any manner any Distribution not otherwise permitted under the terms of **Section 10.2.3** . For purposes of determining compliance with the provisions of this **Section 10.2.4** , equity

Investments made by Sanmina or any of its Subsidiaries (the “contributor”) in any Subsidiary that are effected pursuant to one or more equity contributions made contemporaneously or in prompt succession by the contributor and/or any of its Subsidiaries shall be deemed one Investment by the contributor; and provided, further, no Property acquired by any Borrower or Guarantor in connection with any Investment permitted under this **Section 10.2.4** shall be permitted to be included in the Borrowing Base until Agent has received and approved, in its Credit Judgment, (A) a collateral examination or audit with respect to such Property, including an appraisal by an independent appraisal firm reasonably acceptable to Agent, (B) all UCC, PPSA or other search results necessary to confirm Agent’s first priority Lien on all of such Property, and (C) such customary certificates (including a solvency certificate), resolutions, financial statements, legal opinions, and other documentation as Agent may reasonably request (including as required by **Sections 10.1.1** and **10.1.11** ).

10.2.5 Disposition of Assets. Make any Asset Disposition, except:

- a. a Permitted Asset Disposition;
- b. Investments made in accordance with **Section 10.2.4** ;
- c. a sale, conveyance, lease, transfer or other disposition of Property by a Subsidiary to an Obligor or a sale, conveyance, lease, transfer or other disposition of Property by an Obligor to another Obligor;
- d. all or any part of the business, property or assets of any Foreign Subsidiary of Sanmina may be conveyed, sold, leased, transferred or otherwise disposed of in one transaction or a series of transactions, (i) in the case of a Foreign Subsidiary that is a First Tier Foreign Subsidiary, (A) to any other First Tier Foreign Subsidiary or any Obligor and (B) to any non-First Tier Foreign Subsidiary to the extent only that the gross fair market value of all such property and assets conveyed, sold, leased, transferred or otherwise disposed of during the term hereof pursuant to this clause (B) to all other such Foreign Subsidiaries shall not exceed an amount equal to the Dollar Equivalent of \$100,000,000 in the aggregate, and (ii) in the case of any non-First Tier Foreign Subsidiary, to any other Foreign Subsidiary or any Obligor (either directly or indirectly, including through any First Tier Foreign Subsidiary, pursuant to transactions occurring contemporaneously or in prompt succession involving another Subsidiary or Sanmina);
- e. (i) sales or transfers of receivables and Related Assets from one or more of the obligors listed on Schedule 1.1 to the Disclosure Letter (as such Schedule may be amended from time to time as contemplated by the definition of “Receivables Purchase Facility”) pursuant to the Receivables Purchase Facility (and repurchases of receivables and Related Assets pursuant to the terms of the Receivables Purchase Facility) and (ii) sales of receivables and Related Assets by any Obligor (A) to a Securitization Subsidiary on a non-recourse (other than limited, customary provisions for recourse) basis and the sale thereof by the Securitization Subsidiary to purchasers or (B) pursuant to a non-recourse (other than limited, customary provisions for recourse) factoring or similar arrangement; provided, that in the case of (i) or (ii), the cash consideration for any such sale shall be for an amount equal to at least 90% of the face amount of such receivables, and provided, further, the face amount of all receivables sold and outstanding

at any time pursuant to clauses (i) and (ii) of this **Section 10.2.5(e)** shall not exceed the Dollar Equivalent of \$400,000,000 in the aggregate, and provided, further, in the case of (ii), no Default or Event of Default exists or would result therefrom at the time of any such sale and Borrower Agent from time to time shall provide Agent upon Agent's request, with a current list of the receivables that are sold pursuant to such arrangement;

f. sales of receivables and Related Assets pursuant to Foreign Securitization Facilities or pursuant to a non-recourse (other than limited, customary provisions for recourse) factoring or similar arrangement in which a non-Obligor Subsidiary of Sanmina sells Receivables and Related Assets; provided, that (1) the face amount of all such receivables sold and outstanding at any time shall not exceed the Dollar Equivalent of \$250,000,000 and (2) at the time of any such sale, no Default or Event of Default exists or would result therefrom;

g. the sale, assignment or transfer of Intellectual Property assets by any Obligor to any First Tier Foreign Subsidiary with an aggregate value of up to the Dollar Equivalent of \$125,000,000; provided that any prior to any such transaction involving intellectual property assets relating to the Inventory Collateral, the transferee of such intellectual property assets shall enter into a license reasonably satisfactory to Agent substantially similar to that set forth in **Section 11.3** to the extent such assets are Collateral;

h. sales of assets not constituting Collateral for fair market value and for aggregate consideration of less than \$50,000,000 during the term hereof;

i. the granting of Permitted Liens;

j. the licensing of Intellectual Property on commercially reasonable terms in the Ordinary Course of Business;

k. the sublease of facilities of Sanmina or any Subsidiary or the lease by Sanmina or any Subsidiary of facilities under any operating lease, in each case in the Ordinary Course of Business;

l. the sale of real property (including all buildings, fixtures or other improvements located thereon) comprising the Corporate Head Office Campus in connection with a sale and leaseback transaction;

m. sales of Real Estate owned by any Obligor or any Subsidiary; provided that the aggregate consideration for all such sales does not exceed \$250,000,000;

n. Permitted Pool Transactions;

o. Asset Dispositions of the Property listed on Schedule 10.2.5 to the Disclosure Letter;

p. Asset Dispositions in connection with transactions permitted by Section 10.2.8; and

90

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q. Asset Dispositions in connection with the 2009 Corporate Reorganization; provided to the extent any such Disposition involves intellectual property assets relating to the Inventory Collateral, prior to such Disposition the transferee of any such intellectual property assets (if not an Obligor) shall enter into a license, reasonably satisfactory to Agent, substantially similar to that set forth in **Section 11.3**.

10.2.6 Reserved.

10.2.7 Restrictions on Payment of Certain Debt. If the Availability Conditions are not satisfied at the time thereof, make any payments (whether voluntary or mandatory, or a prepayment, redemption, retirement, defeasance or acquisition) with respect to any (a) Subordinated Debt, except regularly scheduled payments of principal, interest and fees and payments upon mandatory redemption or prepayment, but only to the extent permitted under any subordination agreement relating to such Debt (and a Senior Officer of Borrower Agent shall certify to Agent, not less than five Business Days prior to the date of payment, that all conditions under such agreement have been satisfied); or (b) Borrowed Money (other than the Obligations) prior to its due date (except scheduled payments of principal, interest and fees and payments upon mandatory redemption or prepayment) under the agreements evidencing such Debt as in effect on the Closing Date (or as amended thereafter with the consent of Agent); provided that, Borrowers and their Subsidiaries may honor any conversion request by a holder of any Convertible Indebtedness of Sanmina or any of its Subsidiaries and make cash payments in lieu of fractional shares in connection with the conversion of any Convertible Indebtedness.

10.2.8 Fundamental Changes. Change its name or conduct business under any fictitious name; change its tax or other organizational identification number; change its form or jurisdiction of organization or merge, amalgamate, combine or consolidate with any Person, or liquidate, wind up its affairs or dissolve itself, in each case whether in a single transaction or in a series of related transactions, except (i) for mergers, amalgamations or consolidations of a wholly-owned Subsidiary with another wholly-owned Subsidiary or into a Borrower, (ii) any Foreign Subsidiary of Sanmina may be merged, consolidated or amalgamated with or into any other Foreign Subsidiary or be liquidated, wound up or dissolved; (iii) in connection with a Permitted Acquisition (including a "squeeze out" merger); (iv) in connection with the 2009 Corporate Reorganization; and (v) changes in its name, tax or other organizational identification number or form of jurisdiction of organization upon 30 days prior written notice to Agent and provided that as a result of any such change no Lien granted to Agent hereunder ceases to be a valid, perfected Lien with the priority required hereunder.

10.2.9 Reserved.

10.2.10 Plans. Become party to any Multiemployer Plan, Canadian Plan or Foreign Plan, other than any in existence on the Closing Date.

10.2.11 Tax Consolidation. File or consent to the filing of any consolidated income tax return with any Person other than Borrowers and Subsidiaries.

10.2.12 Accounting Changes. Make any material change in accounting treatment or reporting practices, except as required by GAAP or Applicable Law and in accordance with **Section 1.2** ; or change its Fiscal Year.

10.2.13 Restrictive Agreements. Become a party to any Restrictive Agreement, other than restrictions (i) in agreements evidencing Debt permitted by **Section 10.2.1(c)** or **Section 10.2.1(l)** that impose restrictions on the property so acquired; (ii) by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses, joint venture agreements and other agreements entered into in the Ordinary Course of Business; (iii) that are or were created by virtue of any transfer of, agreement to transfer or option or right with respect to any property, assets or Equity Interests not otherwise prohibited under this Agreement; (iv) in the Indentures, the Senior Notes or the Senior Subordinated Notes or in other documents related to such Debt; (v) contained in agreements or documents evidencing Debt or other obligations permitted by **Section 10.2.1(n)** so long as any such encumbrance or restriction applies only to the Foreign Subsidiary issuing such Debt or other obligation and its Subsidiaries; (vi) imposed on a Subsidiary and existing at the time it became a Subsidiary if such restrictions were not created in connection with or in anticipation of the transaction or series of transactions pursuant to which such Subsidiary became a Subsidiary or was acquired by Sanmina and only to the extent applying to such Subsidiary; (vii) under or in connection with any joint venture agreements, partnership agreement, stock sale agreements and other similar agreements; *provided* that (A) any such agreements are entered into in the Ordinary Course of Business and in good faith, and (B) such restrictions are reasonably customary for such agreements; (viii) under any agreement, instrument or contract affecting property or a Person at the time such property or Person was acquired by Sanmina or any of its Subsidiaries, so long as such restriction relates solely to the property or Person so acquired and was not created in connection with or in anticipation of such acquisition; (ix) existing by virtue of, or arising under, applicable law, regulation, order, approval, license, permit, grant or similar restriction, in each case issued or imposed by a Governmental Authority; (x) that result from any Refinancing Debt of Debt referred to in clause (iv), (v), (vi), (vii) or (viii) of this **Section 10.2.13** ; provided that the restrictions existing under or by reason of any such agreement, instrument or contract are not materially less favorable, taken as a whole, to the Lenders that those under the agreement evidencing the Debt being refinanced; (xi) customary subrogation waivers in guaranties permitted under this Agreement, and (xii) contained in agreements or documents entered into in connection with the transactions contemplated by the Receivables Purchase Facility or sales or securitizations of receivables and Related Assets permitted by **Section 10.2.5(e)** or **(f)** ; (xiii) specific property encumbered to secure payment of particular Debt or to be sold pursuant to an executed agreement with respect to a Disposition permitted under Section 10.2.5; (xiv) restrictions in agreements entered into in connection with the incurrence of Permitted Liens, to the extent they condition, prohibit or limit the ability of Agent or Lenders from obtaining a Lien only on the property, rights and assets subject to such Permitted Lien (but excluding any of the Collateral); (xv) arising in connection with grants from any Governmental Authority; and (xvi) existing on the Closing Date and set forth in **Section 10.2.13** to the Disclosure Letter.

10.2.14 Hedging Agreements. Enter into any Hedging Agreement, except to hedge risks arising in the Ordinary Course of Business (consistent with past practices) and not for speculative purposes.

10.2.15 Conduct of Business. Engage in any business, other than its business as conducted on the Closing Date or any Permitted Business, and in each case any activities incidental thereto.

10.2.16 Affiliate Transactions. Enter into or be party to any transaction with an Affiliate, except (a) transactions contemplated or permitted by the Loan Documents; (b) payment of reasonable compensation to officers and employees for services actually rendered, benefit plans for officers and employees entered into or maintained and established in the Ordinary Course of Business, and loans and advances permitted by **Section 10.2.4** ; (c) payment of customary directors' fees and indemnities; (d) transactions between Sanmina and any of its Subsidiaries or between any Subsidiaries; (e) transactions with Affiliates that were consummated prior to the Closing Date, as shown on **Schedule 10.2.16** to the Disclosure Letter; and (f) transactions with Affiliates upon fair and reasonable terms fully disclosed to Agent and no less favorable than would be obtained in a comparable arm's-length transaction with a non-Affiliate.

10.2.17 Use of Proceeds. Use the proceeds of any Loan, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry Margin Stock or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

10.2.18 Amendments to Subordinated Debt or Indentures. Amend, supplement or otherwise modify the Indentures, any other document, instrument or agreement relating to the Senior Notes or any Subordinated Debt, if such modification (a) increases the principal balance of such Debt, or increases any required payment of principal or interest; (b) accelerates the date on which any installment of principal or any interest is due, or adds any additional redemption, put or prepayment provisions; (c) shortens the final maturity date or otherwise accelerates amortization; (d) increases the interest rate; (e) increases or adds any fees or charges (excluding any fees or charges for amendments, consents or waivers); (f) modifies any covenant in a manner or adds any representation, covenant or default that is, more onerous or restrictive in any material respect for any Borrower or Subsidiary, or that is otherwise materially adverse to any Borrower, any Subsidiary or Lenders; or (g) results in the Obligations not constituting "Senior Debt" under the Senior Subordinated Indentures or otherwise not being fully benefited by the subordination provisions thereof.

10.3 Financial Covenant . As long as any Commitments are outstanding and until Full Payment of the Obligations, Borrowers shall:

10.3.1 Fixed Charge Coverage Ratio. After the Availability Election, maintain a Fixed Charge Coverage Ratio of at least 1.0 to 1.0 for each period of four Fiscal Quarters ending during or immediately before any Trigger Period.

10.4 Post-Closing Covenants.

10.4.1 Notwithstanding anything herein or in any other Loan Document to the contrary, not later than 30 days following the Closing Date or such later date as Agent may determine in its sole discretion, the Agent shall receive copies of one or more executed Deposit



Account Control Agreements in form and substance reasonably satisfactory to it as required under **Section 8.4** .

10.4.2 Not later than 15 days following the Closing Date or such later date as Agent may determine in its sole discretion, Agent shall have been provided with an executed copy of the credit agreement entered into in connection with the Receivables Purchase Facility, which agreement shall be (i) reasonably satisfactory to Agent and (ii) in substantially the same form as the draft of such agreement presented to Agent on or immediately prior to the Closing Date.

## **SECTION 11. EVENTS OF DEFAULT; REMEDIES ON DEFAULT**

11.1 **Events of Default.** Each of the following shall be an “Event of Default” hereunder, if the same shall occur for any reason whatsoever, whether voluntary or involuntary, by operation of law or otherwise:

a. An Obligor fails to pay (i) the principal of, or premium on, any Loan when due (whether at stated maturity, on demand, upon acceleration or otherwise); or (ii) any interest on any Loan or any fee or other amount due hereunder within two (2) Business Days after the date due;

b. Any representation, warranty or other written statement of an Obligor made in connection with any Loan Document or transactions contemplated thereby is incorrect or misleading in any material respect when given;

c. An Obligor breaches or fail to perform any covenant contained in **Section 7.3 , 8.1 , 8.2.4 , 8.2.5 , 8.5.2 , 10.1.1 , 10.1.2** (other than clauses (a) and (b) thereof), **10.1.7 , 10.2 or 10.3** ;

d. An (i) Obligor breaches or fails to perform any covenant contained in **Section 7.5 , Section 10.1.2(a)** or **Section 10.1.2(b)** and such breach or failure is not cured within 15 days after a Senior Officer of such Obligor has knowledge thereof or receives notice thereof from Agent, whichever is sooner, or (ii) Obligor breaches or fails to perform any other covenant contained in any Loan Documents (not covered by clause ( a ) , ( b ) , ( c ) or ( d )(i) of this **Section** ), and such breach or failure is not cured within 30 days after a Senior Officer of such Obligor has knowledge thereof or receives notice thereof from Agent, whichever is sooner; provided, however , that such notice and opportunity to cure shall not apply if the breach or failure to perform is not capable of being cured within such period or is a willful breach by an Obligor;

e. A Guarantor repudiates, revokes or attempts to revoke its Guaranty; an Obligor denies or contests the validity or enforceability of any Loan Documents or Obligations, or the perfection or priority of any Lien granted to Agent; or any Loan Document or Guaranty ceases to be in full force or effect for any reason or any Lien ceases to be a valid, perfected Lien with the priority required hereunder (in each case other than as expressly permitted hereby or pursuant to a waiver or release by Agent and Lenders);

f. Any breach or default of an Obligor or any Subsidiary occurs under any document, instrument or agreement to which it is a party or by which it or any of its Properties is bound, relating to any Borrowed Money (other than the Obligations), Debt in respect of Hedging Agreements or Debt arising from any obligation owed for all or any part of the deferred purchase price of property or services, which purchase price is (a) due more than six months from the date of incurrence of the obligation in respect thereof or (b) evidenced by a note or similar written instrument, in each case in excess of the Dollar Equivalent of \$50,000,000, if the maturity of or any payment with respect to such Debt may be accelerated or demanded due to such breach (it being understood that the amount of Debt in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that would be required to be paid if such Hedging Agreement were terminated at such time);

g. Any (i) material non-monetary judgment or order is entered against an Obligor or any Subsidiary or (ii) judgment or order for the payment of money is entered against an Obligor or any Subsidiary in an amount that exceeds, individually or cumulatively with all unsatisfied judgments or orders against all Obligors and Subsidiaries, the Dollar Equivalent of \$50,000,000 (net of any insurance coverage therefor acknowledged in writing by the insurer), unless, in each case, no later than 60 days after the entry thereof, a stay of enforcement of such judgment or order is in effect, by reason of a pending appeal or otherwise, or such judgment is satisfied, discharged, vacated or bonded;

h. Reserved.

i. An Obligor or any Subsidiary is enjoined, restrained or in any way prevented by any Governmental Authority from conducting any material part of its business for any material period of time; an Obligor or any Subsidiary suffers the loss, revocation or termination of any material license, permit, lease or agreement necessary to its business; there is a cessation of any material part of an Obligor or any Subsidiary's business for a material period of time; any material Collateral or Property of an Obligor or any Subsidiary is taken or impaired through condemnation; except as expressly permitted under any Loan Document, any Subsidiary agrees to or commences any liquidation, dissolution or winding up of its affairs; or an Obligor or any Subsidiary is not Solvent;

j. An Insolvency Proceeding is commenced by an Obligor or any Subsidiary (except an Insignificant Subsidiary); an Obligor or any Subsidiary (except an Insignificant Subsidiary) makes an offer of settlement, extension, arrangement, proposal (or notice of intention to make a proposal) or composition to its unsecured creditors generally; a trustee, receiver, interim receiver, receiver-manager, monitor or similar official or custodian is appointed to take possession of any substantial Property of or to operate any of the business of an Obligor or any Subsidiary (except an Insignificant Subsidiary); or an Insolvency Proceeding is commenced against an Obligor or any Subsidiary (except an Insignificant Subsidiary) and such Obligor or Subsidiary consents to institution of the proceeding, the petition commencing the proceeding is not timely contested by such Obligor or such Subsidiary, the proceeding is not dismissed within 60 days after filing or institution, or an order for relief is entered in the proceeding;

k. An ERISA Event (excluding a “standard termination” of a Pension Plan, within the meaning of Title IV of ERISA, or any contributions to a Pension Plan required to complete a standard termination of the Pension Plan) occurs with respect to a Pension Plan or Multiemployer Plan that has resulted or could reasonably be expected to result in liability of an Obligor to a Pension Plan, Multiemployer Plan or PBGC in excess of \$40.0 million, or that constitutes grounds for appointment of a trustee for or termination by the PBGC of any Pension Plan or Multiemployer Plan; an Obligor or ERISA Affiliate fails to pay when due any installment payment in excess of \$5,000,000 with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan; or any event similar to the foregoing occurs or exists with respect to a Foreign Plan; or any event or condition shall occur or exist with respect to a Canadian Plan that could, in Agent’s good faith judgment, subject Borrowers or their Subsidiaries to any Tax, penalty or other liabilities under the *Supplemental Pension Plans Act* (Québec) and the *Pension Benefits Act* (Ontario) or any other Applicable Laws and which could reasonably be expected to give rise to a Material Adverse Effect, or if Borrowers or any of their Subsidiaries are in default with respect to required payments to a Canadian Plan or any Lien arises (save for contribution amounts not yet due) in connection with any Canadian Plan;

l. An Obligor or any of its Senior Officers is convicted for (i) a felony committed in the conduct of the Obligor’s business, or (ii) violating any state or federal law (including the Controlled Substances Act, Money Laundering Control Act of 1986 and Illegal Exportation of War Materials Act) that could lead to forfeiture of any material Property or any Collateral; or

m. A Change of Control occurs.

11.2 **Remedies upon Default.** If an Event of Default described in **Section 11.1(j)** occurs with respect to any Obligor, all Obligations shall become automatically due and payable and all Commitments shall terminate, without any action by Agent or notice of any kind. In addition, or if any other Event of Default exists, Agent may in its discretion (and shall upon written direction of Required Lenders) do any one or more of the following from time to time:

a. declare any Obligations immediately due and payable, whereupon they shall be due and payable without diligence, presentment, demand, protest or notice of any kind, all of which are hereby waived by Obligors to the fullest extent permitted by law;

b. terminate, reduce or condition any Commitment, or make any adjustment to the Borrowing Base;

c. require Obligors to Cash Collateralize LC Obligations, Bank Product Debt and other Obligations that are contingent or not yet due and payable, and, if Obligors fail promptly to deposit such Cash Collateral, Agent may (and shall upon the direction of Required Lenders) advance the required Cash Collateral as Loans (whether or not an Overadvance exists or is created thereby, or the conditions in **Section 6** are satisfied); and

d. exercise any other rights or remedies afforded under any agreement, by law, at equity or otherwise, including the rights and remedies of a secured party under the UCC or the PPSA, as applicable. Such rights and remedies include the rights to (i) take possession of

any Collateral; (ii) require Obligors to assemble Collateral, at Borrowers' expense, and make it available to Agent at a place designated by Agent; (iii) enter any premises where Collateral is located and store Collateral on such premises until sold (and if the premises are owned or leased by an Obligor, Obligors agree not to charge for such storage); and (iv) sell or otherwise dispose of any Collateral in its then condition, or after any further manufacturing or processing thereof, at public or private sale, with such notice as may be required by Applicable Law, in lots or in bulk, at such locations, all as Agent, in its discretion, deems advisable. Each Obligor agrees that 10 days notice of any proposed sale or other disposition of Collateral by Agent shall be reasonable. Agent shall have the right to conduct such sales on any Obligor's premises, without charge, and such sales may be adjourned from time to time in accordance with Applicable Law. Agent shall have the right to sell, lease or otherwise dispose of any Collateral for cash, credit or any combination thereof, and Agent may purchase any Collateral at public or, if permitted by law, private sale and, in lieu of actual payment of the purchase price, may set off the amount of such price against the Obligations.

11.3 License. For purposes of enabling Agent, during the continuance of an Event of Default, to exercise the rights and remedies under Section 11.2 at such time as Agent shall be lawfully entitled to exercise such rights and remedies, and for no other purpose, Agent is hereby granted (to the extent grantable by such Obligor without breaching or violating any agreement) an irrevocable, non-exclusive license (subject, in the case of trademarks, to sufficient rights to quality control and inspection in favor of such Obligor to avoid the risk of invalidation of such trademarks and, in the case of trade secrets, to an obligation of Agent to take reasonable steps under the circumstances to keep the trade secrets confidential to avoid the risk of invalidation of such trade secrets) or other right to use, license or sub-license (without payment of royalty or other compensation to any Person) any or all Intellectual Property of Obligors, computer hardware and software, trade secrets, brochures, customer lists, promotional and advertising materials, labels, packaging materials and other Property, in advertising for sale, marketing, selling, collecting, completing manufacture of, or otherwise exercising any rights or remedies with respect to, any Collateral. The license granted under this Section 11.3 shall continue in effect until Full Payment of the Obligations and termination of this Agreement in accordance with its terms, at which time such license shall immediately terminate.

11.4 Setoff. At any time during the existence of an Event of Default, Agent, Issuing Bank, Lenders, and any of their Affiliates are authorized, to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by Agent, Issuing Bank, such Lender or such Affiliate to or for the credit or the account of an Obligor against any Obligations, irrespective of whether or not Agent, Issuing Bank, such Lender or such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or are owed to a branch or office of Agent, Issuing Bank, such Lender or such Affiliate different from the branch or office holding such deposit or obligated on such indebtedness. The rights of Agent, Issuing Bank, each Lender and each such Affiliate under this Section are in addition to other rights and remedies (including other rights of setoff) that such Person may have.

## 11.5 Remedies Cumulative; No Waiver.

11.5.1 Cumulative Rights. All covenants, conditions, provisions, warranties, guaranties, indemnities and other undertakings of Obligors contained in the Loan Documents are cumulative and not in derogation or substitution of each other. In particular, the rights and remedies of Agent and Lenders are cumulative, may be exercised at any time and from time to time, concurrently or in any order, and shall not be exclusive of any other rights or remedies that Agent and Lenders may have, whether under any agreement, by law, at equity or otherwise. All rights and remedies shall continue in full force and effect until Full Payment of all Obligations.

11.5.2 Waivers. No waiver or course of dealing shall be established by (a) the failure or delay of Agent or any Lender to require strict performance by Borrowers with any terms of the Loan Documents, or to exercise any rights or remedies with respect to Collateral or otherwise; (b) the making of any Loan or issuance of any Letter of Credit during a Default, Event of Default or other failure to satisfy any conditions precedent; or (c) acceptance by Agent or any Lender of performance by any Obligor under any Loan Documents in a manner other than that specified therein. It is expressly acknowledged by Borrowers that any failure to satisfy a financial covenant on a measurement date shall not be cured or remedied by satisfaction of such covenant on a subsequent date.

## SECTION 12. AGENT

### 12.1 Appointment, Authority and Duties of Agent.

12.1.1 Appointment and Authority. Each Lender appoints and designates Bank of America as Agent hereunder. Agent may, and each Lender authorizes Agent to, enter into all Loan Documents to which Agent is intended to be a party and accept all Security Documents, for Agent's benefit and the Pro Rata benefit of Lenders. Each Lender agrees that any action taken by Agent or Required Lenders in accordance with the provisions of the Loan Documents, and the exercise by Agent or Required Lenders of any rights or remedies set forth therein, together with all other powers reasonably incidental thereto, shall be authorized by and binding upon all Lenders. Without limiting the generality of the foregoing, Agent shall have the sole and exclusive authority to (a) act as the disbursing and collecting agent for Lenders with respect to all payments and collections arising in connection with the Loan Documents; (b) execute and deliver as Agent each Loan Document, including any intercreditor or subordination agreement, and accept delivery of each Loan Document from any Obligor or other Person; (c) act as collateral agent for Secured Parties for purposes of perfecting and administering Liens under the Loan Documents, and for all other purposes stated therein; (d) manage, supervise or otherwise deal with Collateral; (e) consent to the addition of obligors on **Schedule 1.1(b)** to the Disclosure Letter as contemplated in the definition of Receivables Purchase Facility and (f) take any Enforcement Action or otherwise exercise any rights or remedies with respect to any Collateral under the Loan Documents, Applicable Law or otherwise. The duties of Agent shall be ministerial and administrative in nature, and Agent shall not have a fiduciary relationship with any Lender, Secured Party, Participant or other Person, by reason of any Loan Document or any transaction relating thereto. Agent alone shall be authorized to determine whether any Accounts or Inventory constitute Eligible Accounts or Eligible Inventory, or whether to impose or release any reserve, and to exercise its Credit Judgment in connection therewith, which determinations and judgments, if exercised in good faith, shall exonerate Agent from liability to any Lender or other Person for any error in judgment. For the purposes of creating a *solidarité active* in

accordance with Article 1541 of the Civil Code of Québec between Agent, on the one hand, and each other Secured Party, taken individually on the other hand, each Obligor and each such Secured Party acknowledge and agree with Agent that such Secured Party and Agent are hereby conferred the legal status of solidary creditors of each such Obligor in respect of all Obligations owed by each such Obligor to Agent and such Secured Party hereunder and under the other Loan Documents (collectively, the “**Solidary Claim**”) and that, accordingly, but subject (for the avoidance of doubt) to Article 1542 of the Civil Code of Québec, each such Obligor is irrevocably bound towards Agent and each other Secured Party in respect of the entire Solidary Claim of Agent and such. As a result of the foregoing, the parties hereto acknowledge that Agent and each other Secured Party shall at all times have a valid and effective right of action for the entire Solidary Claim of Agent and such Secured Party and the right to give full acquittance for it. Accordingly, and without limiting the generality of the foregoing, Agent, as solidary creditor with each other Secured Party, shall at all times have a valid and effective right of action in respect of the Solidary Claim and the right to give a full acquittance for same. By its execution of the Loan Documents to which it is a party, each such Obligor and Secured Party not a party hereto shall also be deemed to have accepted the stipulations hereinabove provided. The parties further agree and acknowledge that such Liens (hypothecs) under the Security Documents and the other Loan Documents shall be granted to Agent, for its own benefit and for the benefit of the other Secured Party, as solidary creditor as hereinabove set forth.

12.1.2 Duties. Agent shall not have any duties except those expressly set forth in the Loan Documents. The conferral upon Agent of any right shall not imply a duty on Agent’s part to exercise such right, unless instructed to do so by Required Lenders in accordance with this Agreement.

12.1.3 Agent Professionals. Agent may perform its duties through agents and employees. Agent may consult with and employ Agent Professionals, and shall be entitled to act upon, and shall be fully protected in any action taken in good faith reliance upon, any advice given by an Agent Professional. Agent shall not be responsible for the negligence or misconduct of any agents, employees or Agent Professionals selected by it with reasonable care.

12.1.4 Instructions of Required Lenders. The rights and remedies conferred upon Agent under the Loan Documents may be exercised without the necessity of joinder of any other party, unless required by Applicable Law. Agent may request instructions from Required Lenders with respect to any act (including the failure to act) in connection with any Loan Documents, and may seek assurances to its satisfaction from Lenders of their indemnification obligations under **Section 12.6** against all Claims that could be incurred by Agent in connection with any act. Agent shall be entitled to refrain from any act until it has received such instructions or assurances, and Agent shall not incur liability to any Person by reason of so refraining. Instructions of Required Lenders shall be binding upon all Lenders, and no Lender shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting in accordance with the instructions of Required Lenders. Notwithstanding the foregoing, instructions by and consent of all Lenders shall be required in the circumstances described in **Section 15.1.1**, and in no event

shall Required Lenders, without the prior written consent of each Lender, direct Agent to accelerate and demand payment of Loans held by one Lender without accelerating and demanding payment of all other Loans, nor to terminate the Commitments of one Lender without terminating the Commitments of all Lenders. In no event shall Agent be required to take any action that, in its opinion, is contrary to Applicable Law or any Loan Documents or could subject any Agent Indemnitee to personal liability.

## 12.2 Agreements Regarding Collateral and Field Examination Reports.

12.2.1 Lien Releases; Care of Collateral. Lenders authorize Agent to release any Lien with respect to any Collateral (a) upon Full Payment of the Obligations; (b) that is the subject of an Asset Disposition which Borrowers certify in writing to Agent is a Permitted Asset Disposition or an Asset Disposition permitted under **Section 10.2.5** or a Lien which Obligors certify is a Permitted Lien entitled to priority over Agent's Liens (and Agent may rely conclusively on any such certificate without further inquiry); (c) that does not constitute a material part of the Collateral; or (d) with the written consent of all Lenders; provided, however, that any Lien with respect to receivables (to the extent such receivables are owing from an Account Debtor listed on Schedule 1.1 to the Disclosure Letter, as such schedule may be amended from time to time as contemplated by the definition of "Receivables Purchase Facility") and Related Assets transferred pursuant to the Receivables Purchase Facility shall be automatically released without further action by Agent. Agent shall have no obligation whatsoever to any Lenders to assure that any Collateral exists or is owned by an Obligor, or is cared for, protected, insured or encumbered, nor to assure that Agent's Liens have been properly created, perfected or enforced, or are entitled to any particular priority, nor to exercise any duty of care with respect to any Collateral.

12.2.2 Possession of Collateral. Agent and Lenders appoint each Lender as agent (for the benefit of Secured Parties) for the purpose of perfecting Liens in any Collateral held or controlled by such Lender, to the extent such Liens are perfected by possession or control. If any Lender obtains possession or control of any Collateral, it shall notify Agent thereof and, promptly upon Agent's request, deliver such Collateral to Agent or otherwise deal with it in accordance with Agent's instructions.

12.2.3 Reports. Agent shall promptly forward to each Lender, when complete, copies of any field audit, examination or appraisal report prepared by or for Agent with respect to any Obligor or Collateral ("Report"). Each Lender agrees (a) that neither Bank of America nor Agent makes any representation or warranty as to the accuracy or completeness of any Report, and shall not be liable for any information contained in or omitted from any Report; (b) that the Reports are not intended to be comprehensive audits or examinations, and that Agent or any other Person performing any audit or examination will inspect only specific information regarding Obligations or the Collateral and will rely significantly upon Obligors' books and records as well as upon representations of Obligors' officers and employees; and (c) to keep all Reports confidential and strictly for such Lender's internal use, and not to distribute any Report (or the contents thereof) to any Person (except to such Lender's Participants, attorneys and accountants) or use any Report in any manner other than administration of the Loans and other Obligations. Each Lender agrees to indemnify and hold harmless Agent and any other Person preparing a Report from any action such Lender may take as a result of or any conclusion it may draw from any Report, as well as from any Claims arising in connection with any third parties that obtain any information contained in a Report through such Lender.

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12.3 Reliance By Agent. Agent shall be entitled to rely, and shall be fully protected in relying, upon any certification, notice or other communication (including those by telephone, telex, telegram, telecopy or e-mail) believed by it to be genuine and correct and to have been signed, sent or made by the proper Person, and upon the advice and statements of Agent Professionals.

12.4 Action Upon Default. Agent shall not be deemed to have knowledge of any Default or Event of Default unless it has received written notice from a Lender or Borrower specifying the occurrence and nature thereof. If any Lender acquires knowledge of a Default or Event of Default, it shall promptly notify Agent and the other Lenders thereof in writing. Each Lender agrees that, except as otherwise provided in any Loan Documents or with the written consent of Agent and Required Lenders, it will not take any Enforcement Action, accelerate Obligations under any Loan Documents, or exercise any right that it might otherwise have under Applicable Law to credit bid at foreclosure sales, UCC or similar sales or other similar dispositions of Collateral. Notwithstanding the foregoing, however, a Lender may take action to preserve or enforce its rights against an Obligor where a deadline or limitation period is applicable that would, absent such action, bar enforcement of Obligations held by such Lender, including the filing of proofs of claim in an Insolvency Proceeding.

12.5 Ratable Sharing. If any Lender shall obtain any payment or reduction of any Obligation, whether through set-off or otherwise, in excess of its share of such Obligation, determined on a Pro Rata basis or in accordance with **Section 5.5.1**, as applicable, such Lender shall forthwith purchase from Agent, Issuing Bank and the other Lenders such participations in the affected Obligation as are necessary to cause the purchasing Lender to share the excess payment or reduction on a Pro Rata basis or in accordance with **Section 5.5.1**, as applicable. If any of such payment or reduction is thereafter recovered from the purchasing Lender, the purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest. No Lender shall set off against any Dominion Account without the prior consent of Agent.

12.6 Indemnification of Agent Indemnitees. EACH LENDER SHALL INDEMNIFY AND HOLD HARMLESS AGENT INDEMNITEES, TO THE EXTENT NOT REIMBURSED BY OBLIGORS ( BUT WITHOUT LIMITING THE INDEMNIFICATION OBLIGATIONS OF OBLIGORS UNDER ANY LOAN DOCUMENTS), ON A PRO RATA BASIS, AGAINST ALL CLAIMS THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY AGENT INDEMNITEE, PROVIDED THE CLAIM RELATES TO OR ARISES FROM AN AGENT INDEMNITEE ACTING AS OR FOR AGENT (IN ITS CAPACITY AS AGENT). In Agent's discretion, it may reserve for any such Claims made against an Agent Indemnitee, and may satisfy any judgment, order or settlement relating thereto, from proceeds of Collateral prior to making any distribution of Collateral proceeds to Lenders. If Agent is sued by any receiver, bankruptcy trustee, debtor-in-

possession or other Person for any alleged preference or fraudulent transfer, then any monies paid by Agent in settlement or satisfaction of such proceeding, together with all interest, costs and expenses (including reasonable attorneys' fees) incurred in the defense of same, shall be promptly reimbursed to Agent by each Lender to the extent of its Pro Rata share.



12.7 Limitation on Responsibilities of Agent . Agent shall not be liable to Lenders for any action taken or omitted to be taken under the Loan Documents, except for losses directly and solely caused by Agent's gross negligence or willful misconduct. Agent does not assume any responsibility for any failure or delay in performance or any breach by any Obligor or Lender of any obligations under the Loan Documents. Agent does not make to Lenders any express or implied warranty, representation or guarantee with respect to any Obligations, Collateral, Loan Documents or Obligor. No Agent Indemnitee shall be responsible to Lenders for any recitals, statements, information, representations or warranties contained in any Loan Documents; the execution, validity, genuineness, effectiveness or enforceability of any Loan Documents; the genuineness, enforceability, collectibility, value, sufficiency, location or existence of any Collateral, or the validity, extent, perfection or priority of any Lien therein; the validity, enforceability or collectibility of any Obligations; or the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any Obligor or Account Debtor. No Agent Indemnitee shall have any obligation to any Lender to ascertain or inquire into the existence of any Default or Event of Default, the observance or performance by any Obligor of any terms of the Loan Documents, or the satisfaction of any conditions precedent contained in any Loan Documents.

12.8 Successor Agent and Co-Agents .

12.8.1 Resignation; Successor Agent; Defaulting Agent.

a. Subject to the appointment and acceptance of a successor Agent as provided below, Agent may resign at any time by giving at least 30 days written notice thereof to Lenders and Borrowers. Upon receipt of such notice, Required Lenders shall have the right to appoint a successor Agent which shall be (a) a Lender or an Affiliate of a Lender; or (b) a commercial bank that is organized under the laws of the United States or any state or district thereof, has a combined capital surplus of at least \$200,000,000 and (provided no Default or Event of Default exists) is reasonably acceptable to Borrowers. If no successor agent is appointed prior to the effective date of the resignation of Agent, then Agent may appoint a successor agent from among Lenders. Upon acceptance by a successor Agent of an appointment to serve as Agent hereunder, such successor Agent shall thereupon succeed to and become vested with all the powers and duties of the retiring Agent without further act, and the retiring Agent shall be discharged from its duties and obligations hereunder but shall continue to have the benefits of the indemnification set forth in **Sections 12.6 and 15.2** . Notwithstanding any Agent's resignation, the provisions of this **Section 12** shall continue in effect for its benefit with respect to any actions taken or omitted to be taken by it while Agent. Any successor to Bank of America by merger or acquisition of stock or this loan shall continue to be Agent hereunder without further act on the part of the parties hereto, unless such successor resigns as provided above.

b. In the event that Agent becomes a Defaulting Agent, Required Lenders, in their sole and absolute discretion, shall have the right at any time thereafter to remove such Defaulting Agent and to select and appoint a successor Agent. Upon acceptance by a successor Agent of an appointment to serve as Agent hereunder, such successor Agent shall thereupon succeed to and become vested with all of the powers and duties of the replaced Agent without further act; provided, however, that subject to the provisions of **Section 12.7** , the removal of a

Defaulting Agent shall not impair or impede any rights and remedies at law or in equity otherwise available to Lenders with respect to the acts or omissions of such Defaulting Agent.

12.8.2 Separate Collateral Agent. It is the intent of the parties that there shall be no violation of any Applicable Law denying or restricting the right of financial institutions to transact business in any jurisdiction. If Agent believes that it may be limited in the exercise of any rights or remedies under the Loan Documents due to any Applicable Law, Agent may appoint an additional Person who is not so limited, as a separate collateral agent or co-collateral agent. If Agent so appoints a collateral agent or co-collateral agent, each right and remedy intended to be available to Agent under the Loan Documents shall also be vested in such separate agent. Every covenant and obligation necessary to the exercise thereof by such agent shall run to and be enforceable by it as well as Agent. Lenders shall execute and deliver such documents as Agent deems appropriate to vest any rights or remedies in such agent. If any collateral agent or co-collateral agent shall die or dissolve, become incapable of acting, resign or be removed, then all the rights and remedies of such agent, to the extent permitted by Applicable Law, shall vest in and be exercised by Agent until appointment of a new agent.

12.9 Due Diligence and Non-Reliance. Each Lender acknowledges and agrees that it has, independently and without reliance upon Agent or any other Lenders, and based upon such documents, information and analyses as it has deemed appropriate, made its own credit analysis of each Obligor and its own decision to enter into this Agreement and to fund Loans and participate in LC Obligations hereunder. Each Lender has made such inquiries concerning the Loan Documents, the Collateral and each Obligor as such Lender feels necessary. Each Lender further acknowledges and agrees that the other Lenders and Agent have made no representations or warranties concerning any Obligor, any Collateral or the legality, validity, sufficiency or enforceability of any Loan Documents or Obligations. Each Lender will, independently and without reliance upon the other Lenders or Agent, and based upon such financial statements, documents and information as it deems appropriate at the time, continue to make and rely upon its own credit decisions in making Loans and participating in LC Obligations, and in taking or refraining from any action under any Loan Documents. Except for notices, reports and other information expressly requested by a Lender, Agent shall have no duty or responsibility to provide any Lender with any notices, reports or certificates furnished to Agent by any Obligor or any credit or other information concerning the affairs, financial condition, business or Properties of any Obligor (or any of its Affiliates) which may come into possession of Agent or any of Agent's Affiliates.

12.10 Replacement of Certain Lenders. If a Lender (a) is a Defaulting Lender, or (b) fails to give its consent to any amendment, waiver or action for which consent of all Lenders was required and Required Lenders consented, then, in addition to any other rights and remedies that any Person may have, Agent may, by notice to such Lender within 120 days after such event, require such Lender to assign all of its rights and obligations under the Loan Documents to Eligible Assignee(s) specified by Agent, pursuant to appropriate Assignment and Acceptance(s) and within 20 days after Agent's notice. Agent is irrevocably appointed as attorney-in-fact to execute any such Assignment and Acceptance if the Lender fails to execute same. Such Lender shall be entitled to receive, in cash, concurrently with such assignment, all amounts owed to it under the Loan Documents, including all principal, interest and fees through the date of assignment (but excluding any prepayment charge).

12.11 Remittance of Payments and Collections.

12.11.1 Remittances Generally. All payments by any Lender to Agent shall be made by the time and on the day set forth in this Agreement, in immediately available funds. If no time for payment is specified or if payment is due on demand by Agent and request for payment is made by Agent by 11:00 a.m. on a Business Day, payment shall be made by Lender not later than 2:00 p.m. on such day, and if request is made after 11:00 a.m., then payment shall be made by 11:00 a.m. on the next Business Day. Payment by Agent to any Lender shall be made by wire transfer, in the type of funds received by Agent. Any such payment shall be subject to Agent's right of offset for any amounts due from such Lender under the Loan Documents.

12.11.2 Failure to Pay. If any Lender fails to pay any amount when due by it to Agent pursuant to the terms hereof, such amount shall bear interest from the due date until paid at the rate determined by Agent as customary in the banking industry for interbank compensation. In no event shall Borrowers be entitled to receive credit for any interest paid by a Lender to Agent, nor shall any Defaulting Lender be entitled to interest on any amounts held by Agent pursuant to **Section 4.2**.

12.11.3 Recovery of Payments. If Agent pays any amount to a Lender in the expectation that a related payment will be received by Agent from an Obligor and such related payment is not received, then Agent may recover such amount from each Lender that received it. If Agent determines at any time that an amount received under any Loan Document must be returned to an Obligor or paid to any other Person pursuant to Applicable Law or otherwise, then, notwithstanding any other term of any Loan Document, Agent shall not be required to distribute such amount to any Lender. If any amounts received and applied by Agent to any Obligations are later required to be returned by Agent pursuant to Applicable Law, each Lender shall pay to Agent, **on demand**, such Lender's Pro Rata share of the amounts required to be returned.

12.12 Agent in its Individual Capacity. As a Lender, Bank of America shall have the same rights and remedies under the other Loan Documents as any other Lender, and the terms "Lenders," "Required Lenders" or any similar term shall include Bank of America in its capacity as a Lender. Each of Bank of America and its Affiliates may accept deposits from, maintain deposits or credit balances for, invest in, lend money to, provide Bank Products to, act as trustee under indentures of, serve as financial or other advisor to, and generally engage in any kind of business with, Obligors and their Affiliates, as if Bank of America were any other bank, without any duty to account therefor (including any fees or other consideration received in connection therewith) to the other Lenders. In their individual capacity, Bank of America and its Affiliates may receive information regarding Obligors, their Affiliates and their Account Debtors (including information subject to confidentiality obligations), and each Lender agrees that Bank of America and its Affiliates shall be under no obligation to provide such information to Lenders, if acquired in such individual capacity and not as Agent hereunder.

12.13 Agent Titles. Each Lender or other financial institution, other than Bank of America, that is designated (on the cover page of this Agreement or otherwise) by Bank of America as an "Agent" or "Arranger" of any type shall not have any right, power, responsibility

or duty under any Loan Documents other than those applicable to all Lenders (to the extent that it is a Lender), and shall in no event be deemed to have any fiduciary relationship with any other Lender.

12.14 No Third Party Beneficiaries. This **Section 12** is an agreement solely among Lenders and Agent, and shall survive Full Payment of the Obligations. This **Section 12** does not confer any rights or benefits upon Borrowers or any other Person. As between Borrowers and Agent, any action that Agent may take under any Loan Documents or with respect to any Obligations shall be conclusively presumed to have been authorized and directed by Lenders.

### **SECTION 13. BENEFIT OF AGREEMENT; ASSIGNMENTS AND PARTICIPATIONS**

13.1 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Borrowers, Agent, Lenders, and their respective successors and assigns, except that (a) no Borrower shall have the right to assign its rights or delegate its obligations under any Loan Documents except as permitted under **Section 10**; and (b) any assignment by a Lender must be made in compliance with **Section 13.3**. Agent may treat the Person which made any Loan as the owner thereof for all purposes until such Person makes an assignment in accordance with **Section 13.3**. Any authorization or consent of a Lender shall be conclusive and binding on any subsequent transferee or assignee of such Lender.

#### 13.2 Participations.

13.2.1 Permitted Participants; Effect. Any Lender may, in the ordinary course of its business and in accordance with Applicable Law, at any time sell to a financial institution ("Participant") a participating interest in the rights and obligations of such Lender under any Loan Documents. Despite any sale by a Lender of participating interests to a Participant, such Lender's obligations under the Loan Documents shall remain unchanged, such Lender shall remain solely responsible to the other parties hereto for performance of such obligations, such Lender shall remain the holder of its Loans and Commitments for all purposes, all amounts payable by Borrowers shall be determined as if such Lender had not sold such participating interests, and Borrowers and Agent shall continue to deal solely and directly with such Lender in connection with the Loan Documents. Each Lender shall be solely responsible for notifying its Participants of any matters under the Loan Documents, and Agent and the other Lenders shall not have any obligation or liability to any such Participant. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of **Section 5.8** unless Borrowers agree otherwise in writing.

13.2.2 Voting Rights. Each Lender shall retain the sole right to approve, without the consent of any Participant, any amendment, waiver or other modification of any Loan Documents other than that which forgives principal, interest or fees, reduces the stated interest rate or fees payable with respect to any Loan or Commitment in which such Participant has an interest, postpones the Commitment Termination Date or any date fixed for any regularly scheduled payment of principal, interest or fees on such Loan or Commitment, or releases any Borrower, all or substantially all of the value of the guaranties of the Obligations made by the Guarantors or substantial portion of the Collateral.

13.2.3 **Benefit of Set-Off.** Borrowers agree that each Participant shall have a right of set-off in respect of its participating interest to the same extent as if such interest were owing directly to a Lender, and each Lender shall also retain the right of set-off with respect to any participating interests sold by it. By exercising any right of set-off, a Participant agrees to share with Lenders all amounts received through its set-off, in accordance with **Section 12.5** as if such Participant were a Lender.

### 13.3 Assignments.

13.3.1 **Permitted Assignments.** A Lender may assign to an Eligible Assignee any of its rights and obligations under the Loan Documents, as long as (a) each assignment is of a constant, and not a varying, percentage of the transferor Lender's rights and obligations under the Loan Documents and, in the case of a partial assignment, is in a minimum principal amount of \$5,000,000 (unless otherwise agreed by Agent in its discretion and, except during the occurrence and continuance of a Default or an Event of Default, Sanmina) and integral multiples of \$1,000,000 in excess of that amount; (b) except in the case of an assignment in whole of a Lender's rights and obligations, the aggregate amount of the Commitments retained by the transferor Lender is at least \$5,000,000 (unless otherwise agreed by Agent in its discretion); and (c) the parties to each such assignment shall execute and deliver to Agent, for its acceptance and recording, an Assignment and Acceptance. Nothing herein shall limit the right of a Lender to pledge or assign any rights under the Loan Documents to (i) any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors and any Operating Circular issued by such Federal Reserve Bank, or (ii) counterparties to swap agreements relating to any Loans; provided, however, that any payment by Borrowers to the assigning Lender in respect of any Obligations assigned as described in this sentence shall satisfy Borrowers' obligations hereunder to the extent of such payment, and no such assignment shall release the assigning Lender from its obligations hereunder.

13.3.2 **Effect; Effective Date.** Upon delivery to Agent of an assignment notice in the form of **Exhibit C** and a processing fee of \$3,500 (unless otherwise agreed by Agent in its discretion), the assignment shall become effective as specified in the notice, if it complies with this **Section 13.3**. From such effective date, the Eligible Assignee shall for all purposes be a Lender under the Loan Documents, and shall have all rights and obligations of a Lender thereunder. Upon consummation of an assignment, the transferor Lender, Agent and Borrowers shall make appropriate arrangements for issuance of replacement and/or new Notes, as applicable. The transferee Lender shall comply with **Section 5.9** and deliver, upon request, an administrative questionnaire satisfactory to Agent.

## **SECTION 14. GUARANTY**

14.1 Guaranty of the Obligations. Guarantors jointly and severally hereby irrevocably and unconditionally guaranty to Agent for the ratable benefit of the Secured Parties the due and punctual payment in full of all Obligations when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)) (collectively, the "Guaranteed Obligations").

14.2 Contribution by Guarantors . All Guarantors desire to allocate among themselves (collectively, the “Contributing Guarantors”), in a fair and equitable manner, their obligations arising under this Guaranty. Accordingly, in the event any payment or distribution is made on any date by a Guarantor (a “Funding Guarantor”) under this Guaranty that exceeds its Fair Share as of such date, to the extent permitted by applicable law, such Funding Guarantor shall be entitled to a contribution from each of the other Contributing Guarantors in the amount of such other Contributing Guarantor’s Fair Share Shortfall as of such date, with the result that all such contributions will cause each Contributing Guarantor’s Aggregate Payments to equal its Fair Share as of such date. “Fair Share” means, with respect to a Contributing Guarantor as of any date of determination, an amount equal to (a) the ratio of (i) the Fair Share Contribution Amount with respect to such Contributing Guarantor to (ii) the aggregate of the Fair Share Contribution Amounts with respect to all Contributing Guarantors multiplied by (b) the aggregate amount paid or distributed on or before such date by all Funding Guarantors under this Guaranty in respect of the obligations Guaranteed. “Fair Share Shortfall” means, with respect to a Contributing Guarantor as of any date of determination, the excess, if any, of the Fair Share of such Contributing Guarantor over the Aggregate Payments of such Contributing Guarantor. “Fair Share Contribution Amount” means, with respect to a Contributing Guarantor as of any date of determination, the maximum aggregate amount of the obligations of such Contributing Guarantor under this Guaranty that would not render its obligations hereunder or thereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of Title 11 of the United States Code or any comparable applicable provisions of state law; *provided* , solely for purposes of calculating the “Fair Share Contribution Amount” with respect to any Contributing Guarantor for purposes of this **Section 14.2** , any assets or liabilities of such Contributing Guarantor arising by virtue of any rights to subrogation, reimbursement or indemnification or any rights to or obligations of contribution hereunder shall not be considered as assets or liabilities of such Contributing Guarantor. “Aggregate Payments” means, with respect to a Contributing Guarantor as of any date of determination, an amount equal to (1) the aggregate amount of all payments and distributions made on or before such date by such Contributing Guarantor in respect of this Guaranty (including, without limitation, in respect of this **Section 14.2** ), minus (2) the aggregate amount of all payments received on or before such date by such Contributing Guarantor from the other Contributing Guarantors as contributions under this **Section 14.2** . The amounts payable as contributions hereunder shall be determined as of the date on which the related payment or distribution is made by the applicable Funding Guarantor. The allocation among Contributing Guarantors of their obligations as set forth in this **Section 14.2** shall not be construed in any way to limit the liability of any Contributing Guarantor hereunder. Each Guarantor is a third party beneficiary to the contribution agreement set forth in this **Section 14.2** .

14.3 Payment by Guarantors . Guarantors hereby jointly and severally agree, in furtherance of the foregoing and not in limitation of any other right which any Secured Party may have at law or in equity against any Guarantor by virtue hereof, that upon the failure of any Borrower to pay any of the Guaranteed Obligations when and as the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)), Guarantors will upon demand pay, or cause to be paid, in cash, to Agent for the ratable benefit of Secured Parties, an amount equal to the sum of the unpaid principal amount of all Guaranteed Obligations then due

as aforesaid, accrued and unpaid interest on such Guaranteed Obligations (including interest which, but for any Borrower's becoming the subject of a case under the Bankruptcy Code, would have accrued on such Guaranteed Obligations, whether or not a claim is allowed against such Borrower for such interest in the related bankruptcy case) and all other Guaranteed Obligations then owed to Secured Parties as aforesaid.

14.4 Liability of Guarantors Absolute. Each Guarantor agrees that its obligations hereunder are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor or surety other than payment in full of the Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, each Guarantor agrees as follows:

14.4.1 This Guaranty is a guaranty of payment when due and not of collectability. This Guaranty is a primary obligation of each Guarantor and not merely a contract of surety;

14.4.2 Agent may enforce this Guaranty upon the occurrence and during the continuance of an Event of Default notwithstanding the existence of any dispute between any Borrower and any Secured Party with respect to the existence of such Event of Default;

14.4.3 The obligations of each Guarantor hereunder are independent of the obligations of any Borrower and the obligations of any other guarantor (including any other Guarantor) of the obligations of any Borrower, and a separate action or actions may be brought and prosecuted against such Guarantor whether or not any action is brought against such Borrower or any of such other guarantors and whether or not any Borrower or such other guarantors are joined in any such action or actions;

14.4.4 Payment by any Guarantor of a portion, but not all, of the Guaranteed Obligations shall in no way limit, affect, modify or abridge any Guarantor's liability for any portion of the Guaranteed Obligations which has not been paid. Without limiting the generality of the foregoing, if Agent is awarded a judgment in any suit brought to enforce any Guarantor's covenant to pay a portion of the Guaranteed Obligations, such judgment shall not be deemed to release such Guarantor from its covenant to pay the portion of the Guaranteed Obligations that is not the subject of such suit, and such judgment shall not, except to the extent satisfied by such Guarantor, limit, affect, modify or abridge any other Guarantor's liability hereunder in respect of the Guaranteed Obligations;

14.4.5 Any Secured Party, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability hereof or giving rise to any reduction, limitation, impairment, discharge or termination of any Guarantor's liability hereunder, from time to time may (i) renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of the Guaranteed Obligations; (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto and/or subordinate the payment of the same to the payment of any other obligations; (iii) request and accept other guaranties of the Guaranteed Obligations and take and hold security for the payment hereof or the Guaranteed Obligations; (iv) release, surrender, exchange, substitute,

compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for payment of the Guaranteed Obligations, any other guaranties of the Guaranteed Obligations, or any other obligation of any Person (including any other Guarantor) with respect to the Guaranteed Obligations; (v) enforce and apply any security now or hereafter held by or for the benefit of such Secured Party in respect hereof or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that such Secured Party may have against any such security, in each case as such Secured Party in its discretion may determine consistent herewith or the applicable Hedging Agreement and any applicable security agreement, including foreclosure on any such security pursuant to one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor against any Borrower or any security for the Guaranteed Obligations; and (vi) exercise any other rights available to it under the Loan Documents or the Hedging Agreements; and

14.4.6 This Guaranty and the obligations of Guarantors hereunder shall be valid and enforceable and shall not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than payment in full of the Guaranteed Obligations), including the occurrence of any of the following, whether or not any Guarantor shall have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Loan Documents or the Hedging Agreements, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guaranty of or security for the payment of the Guaranteed Obligations; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof, any of the other Loan Documents, any of the Hedging Agreements or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Guaranteed Obligations, in each case whether or not in accordance with the terms hereof or such Loan Document, such Hedging Agreement or any agreement relating to such other guaranty or security; (iii) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect; (iv) the application of payments received from any source (other than payments received pursuant to the other Loan Documents or any of the Hedging Agreements or from the proceeds of any security for the Guaranteed Obligations, except to the extent such security also serves as collateral for indebtedness other than the Guaranteed Obligations) to the payment of indebtedness other than the Guaranteed Obligations, even though any Secured Party might have elected to apply such payment to any part or all of the Guaranteed Obligations; (v) any Secured Party's consent to the change, reorganization or termination of the corporate structure or existence of Sanmina or any of its Subsidiaries and to any corresponding restructuring of the Guaranteed Obligations; (vi) any failure to perfect or continue perfection of a security interest in any collateral which secures any of the Guaranteed Obligations; (vii) any defenses, set-offs or counterclaims which any Borrower may allege or assert against any Secured Party in respect of the Guaranteed Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; and (viii) any other act



or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of any Guarantor as an obligor in respect of the Guaranteed Obligations.

14.5 Waivers by Guarantors. Each Guarantor hereby waives, to the fullest extent permitted by law, for the benefit of Secured Parties: (a) any right to require any Secured Party, as a condition of payment or performance by such Guarantor, to (i) proceed against any Borrower, any other guarantor (including any other Guarantor) of the Guaranteed Obligations or any other Person, (ii) proceed against or exhaust any security held from any Borrower, any such other guarantor or any other Person, (iii) proceed against or have resort to any balance of any Deposit Account or credit on the books of any Secured Party in favor of any Borrower or any other Person, or (iv) pursue any other remedy in the power of any Secured Party whatsoever; (b) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of any Borrower or any other Guarantor including any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of any Borrower or any other Guarantor from any cause other than payment in full of the Guaranteed Obligations; (c) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (d) any defense based upon any Secured Party's errors or omissions in the administration of the Guaranteed Obligations, except behavior which amounts to gross negligence or bad faith; (e) (i) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of such Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement hereof, (iii) any rights to set-offs, recoupments and counterclaims, and (iv) promptness, diligence and any requirement that any Secured Party protect, secure, perfect or insure any security interest or lien or any property subject thereto; (f) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder, the Hedging Agreements or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto, notices of any extension of credit to any Borrower and notices of any of the matters referred to in **Section 14.4** and any right to consent to any thereof; and (g) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof.

As used in this paragraph, any reference to "the principal" includes any Borrower, and any reference to "the creditor" includes Agent and each other Secured Party. In accordance with Section 2856 of the California Civil Code (a) each Guarantor waives any and all rights and defenses available to it by reason of Sections 2787 to 2855, inclusive, 2899 and 3433 of the California Civil Code, including without limitation any and all rights or defenses such Guarantor may have by reason of protection afforded to the principal with respect to any of the Guaranteed Obligations, or to any other guarantor of any of the Guaranteed Obligations with respect to any of such guarantor's obligations under its guaranty, in either case pursuant to the antideficiency or other laws of the State of California limiting or discharging the principal's indebtedness or such guarantor's obligations, including without limitation Section 580a, 580b, 580d, or 726 of the California Code of Civil Procedure; and (b) each Guarantor waives all rights and defenses arising out of an election of remedies by the creditor, even though that election of remedies, such as a

nonjudicial foreclosure with respect to security for a Guaranteed Obligation, has destroyed such Guarantor's rights of subrogation and reimbursement against the principal by the operation of Section 580d of the Code of Civil Procedure or otherwise; and even though that election of remedies by the creditor, such as nonjudicial foreclosure with respect to security for an obligation of any other guarantor of any of the Guaranteed Obligations, has destroyed such Guarantor's rights of contribution against such other guarantor. No other provision of this Guaranty shall be construed as limiting the generality of any of the covenants and waivers set forth in this paragraph. As provided below, this Guaranty shall be governed by, and shall be construed and enforced in accordance with, the internal laws of the State of New York. This paragraph is included solely out of an abundance of caution, and shall not be construed to mean that any of the above-referenced provisions of California law are in any way applicable to this Guaranty or to any of the Guaranteed Obligations.

14.6 Guarantors' Rights of Subrogation, Contribution, Etc. Until the Guaranteed Obligations shall have been indefeasibly paid in full, each Guarantor hereby waives any claim, right or remedy, direct or indirect, that such Guarantor now has or may hereafter have against any Borrower or any other Guarantor or any of its assets in connection with this Guaranty or the performance by such Guarantor of its obligations hereunder, in each case whether such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise and including without limitation (a) any right of subrogation, reimbursement or indemnification that such Guarantor now has or may hereafter have against any Borrower with respect to the Guaranteed Obligations, (b) any right to enforce, or to participate in, any claim, right or remedy that any Secured Party now has or may hereafter have against any Borrower, and (c) any benefit of, and any right to participate in, any collateral or security now or hereafter held by any Secured Party. In addition, until the Guaranteed Obligations shall have been indefeasibly paid in full, each Guarantor shall withhold exercise of any right of contribution such Guarantor may have against any other guarantor (including any other Guarantor) of the Guaranteed Obligations, including, without limitation, any such right of contribution as contemplated by **Section 14.2**. Each Guarantor further agrees that, to the extent the waiver or agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification such Guarantor may have against any Borrower or against any collateral or security, and any rights of contribution such Guarantor may have against any such other guarantor, shall be junior and subordinate to any rights any Secured Party may have against such Borrower, to all right, title and interest any Secured Party may have in any such collateral or security, and to any right any Secured Party may have against such other guarantor. If any amount shall be paid to any Guarantor on account of any such subrogation, reimbursement, indemnification or contribution rights at any time when all Guaranteed Obligations shall not have been finally and indefeasibly paid in full, such amount shall be held in trust for Agent on behalf of Secured Parties and shall forthwith be paid over to Agent for the benefit of Secured Parties to be credited and applied against the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms hereof.

14.7 Subordination of Other Obligations. Any Indebtedness of any Borrower or any Guarantor now or hereafter held by any Guarantor (the “Obligee Guarantor”) is hereby subordinated in right of payment to the Guaranteed Obligations, and any such indebtedness collected or received by the Obligee Guarantor after an Event of Default has occurred and is

continuing shall be held in trust for Agent on behalf of Secured Parties and shall forthwith be paid over to Agent for the benefit of Secured Parties to be credited and applied against the Guaranteed Obligations but without affecting, impairing or limiting in any manner the liability of the Obligor Guarantor under any other provision hereof.

14.8 Continuing Guaranty. This Guaranty is a continuing guaranty and shall remain in effect until all of the Guaranteed Obligations shall have been paid in full. Each Guarantor hereby irrevocably waives any right to revoke this Guaranty as to future transactions giving rise to any Guaranteed Obligations.

14.9 Authority of Guarantors or Borrowers. It is not necessary for any Secured Party to inquire into the capacity or powers of any Guarantor or any Borrower or the officers, directors or any agents acting or purporting to act on behalf of any of them.

14.10 Financial Condition of Borrowers. Any Loan may be made to any Borrower or continued from time to time, and any Hedging Agreements may be entered into from time to time, in each case without notice to or authorization from any Guarantor regardless of the financial or other condition of any Borrower at the time of any such grant or continuation or at the time such Hedging Agreement is entered into, as the case may be. No Secured Party shall have any obligation to disclose or discuss with any Guarantor its assessment, or any Guarantor's assessment, of the financial condition of any Borrower. Each Guarantor has adequate means to obtain information from any Borrower on a continuing basis concerning the financial condition of such Borrower and its ability to perform its obligations under the Loan Documents and the Hedging Agreements, and each Guarantor assumes the responsibility for being and keeping informed of the financial condition of Borrowers and of all circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations. Each Guarantor hereby waives and relinquishes any duty on the part of any Secured Party to disclose any matter, fact or thing relating to the business, operations or conditions of any Borrower now known or hereafter known by any Secured Party.

14.11 Bankruptcy, Etc.

14.11.1 So long as any Guaranteed Obligations remain outstanding, no Guarantor shall, without the prior written consent of Agent acting pursuant to the instructions of Required Lenders, commence or join with any other Person in commencing any bankruptcy, reorganization or insolvency case or proceeding of or against any Borrower or any other Guarantor. The obligations of Guarantors hereunder shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any case or proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of any Borrower or any Guarantor or by any defense which any Borrower or any other Guarantor may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

14.11.2 Each Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any case or proceeding referred to in **Section 14.11.1** above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of such case or

proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if such case or proceeding had not been commenced) shall be included in the Guaranteed Obligations because it is the intention of Guarantors and Secured Parties that the Guaranteed Obligations which are guaranteed by Guarantors pursuant hereto should be determined without regard to any rule of law or order which may relieve any Borrower of any portion of such Guaranteed Obligations. Guarantors will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person to pay Agent, or allow the claim of Agent in respect of, any such interest accruing after the date on which such case or proceeding is commenced.

14.11.3 In the event that all or any portion of the Guaranteed Obligations are paid by Borrowers, the obligations of Guarantors hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered directly or indirectly from any Secured Party as a preference, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Guaranteed Obligations for all purposes hereunder.

## **SECTION 15. MISCELLANEOUS**

### **15.1 Consents, Amendments and Waivers .**

15.1.1 Amendment. No modification of any Loan Document, including any extension or amendment of a Loan Document or any waiver of a Default or Event of Default, shall be effective without the prior written agreement of Agent (with the consent of Required Lenders) and each Obligor party to such Loan Document; provided, however, that

a. without the prior written consent of Agent, no modification shall be effective with respect to any provision in a Loan Document that relates to any rights, duties or discretion of Agent;

b. without the prior written consent of Issuing Bank, no modification shall be effective with respect to any LC Obligations or **Section 2.2** ;

c. without the prior written consent of each affected Lender, no modification shall be effective that would (i) increase the Commitment of such Lender; or (ii) reduce the amount of, or waive or delay payment of, any principal, interest or fees payable to such Lender; and

d. without the prior written consent of all Lenders (except a Defaulting Lender as provided in **Section 4.2** ), no modification shall be effective that would (i) extend the Revolver Termination Date; (ii) alter **Section 5.5, 7.1** (except to add Collateral), **12.5** or **15.1** ; (iii) amend the definitions of Borrowing Base (and the defined terms used in such definition), Pro Rata or Required Lenders; (iv) increase any advance rate, decrease the Availability Block or increase total Commitments except in accordance with the provisions of **Section 2.3** ; (vi) release all or substantially all of the Collateral, except as currently contemplated by the Loan Documents; (vii) release any Obligor from liability for any Obligations, if such Obligor is Solvent at the time of the release (other than the release of less than all or substantially all of the

value of the Guaranties of the Obligations made by the Guarantor) or (viii) waive any of the conditions of **Section 6.1** .

15.1.2 **Limitations.** The agreement of Borrowers shall not be necessary to the effectiveness of any modification of a Loan Document that deals solely with the rights and duties of Lenders, Agent and/or Issuing Bank as among themselves. Only the consent of the parties to the Fee Letter or any agreement relating to a Bank Product shall be required for any modification of such agreement, and any non-Lender that is party to a Bank Product agreement shall have no right to participate in any manner in modification of any other Loan Document. Any waiver or consent granted by Lenders hereunder shall be effective only if in writing and only for the matter specified. No consent of any party shall be required to add an Obligor in accordance with **Section 10.1.9** and no consent of the Lenders shall be required for an amendment or modification to the extent expressly provided herein that such amendment or modification can be made by an Obligor and/or Agent.

15.1.3 **Payment for Consents.** No Borrower will, directly or indirectly, pay any remuneration or other thing of value, whether by way of additional interest, fee or otherwise, to any Lender (in its capacity as a Lender hereunder) as consideration for agreement by such Lender with any modification of any Loan Documents, unless such remuneration or value is concurrently paid, on the same terms, on a Pro Rata basis to all Lenders providing their consent.

15.2 **Indemnity.** SUBJECT TO **SECTION 5.8** , EACH BORROWER SHALL INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST ANY CLAIMS THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY INDEMNITEE, INCLUDING CLAIMS ARISING FROM THE NEGLIGENCE OF AN INDEMNITEE. In no event shall any party to a Loan Document have any obligation thereunder to indemnify or hold harmless an Indemnitee with respect to a Claim that is determined in a final, non-appealable judgment by a court of competent jurisdiction to result from the gross negligence or willful misconduct of such Indemnitee. The provisions of this **Section 15.2** shall survive payment in full of the Obligations.

15.3 **Notices and Communications.**

15.3.1 **Notice Address.** Subject to **Section 4.1.4** , all notices and other communications by or to a party hereto shall be in writing and shall be given to any Borrower, at Borrower Agent's address shown on the signature pages hereof, and to any other Person at its address shown on the signature pages hereof (or, in the case of a Person who becomes a Lender after the Closing Date, at the address shown on its Assignment and Acceptance), or at such other address as a party may hereafter specify by notice in accordance with this **Section 15.3** . Each such notice or other communication shall be effective only (a) if given by facsimile transmission, when transmitted to the applicable facsimile number, if confirmation of receipt is received; (b) if given by mail, three Business Days after deposit in the mail, with first-class postage pre-paid, addressed to the applicable address; or (c) if given by personal delivery, when duly delivered to the notice address with receipt acknowledged. Notwithstanding the foregoing, no notice to Agent pursuant to **Section 2.1.4, 2.2, 3.1.2, or 4.1.1** shall be effective until actually received by the individual to whose attention at Agent such notice is required to be sent. Any written notice or other communication that is not sent in conformity with the foregoing provisions shall

nevertheless be effective on the date actually received by the noticed party. Any notice received by Borrower Agent shall be deemed received by all Borrowers.

15.3.2 Electronic Communications; Voice Mail. Electronic mail and internet websites may be used only for routine communications, such as financial statements, Borrowing Base Certificates and other information required by **Section 10.1.2**, administrative matters, distribution of Loan Documents for execution, and matters permitted under **Section 4.1.4**. Agent and Lenders make no assurances as to the privacy and security of electronic communications. Except as expressly provided therein, electronic and voice mail may not be used as effective notice under the Loan Documents.

15.3.3 Non-Conforming Communications. Agent and Lenders may rely upon any notices purportedly given by or on behalf of any Obligor even if such notices were not made in a manner specified herein, were incomplete or were not confirmed, or if the terms thereof, as understood by the recipient, varied from a later confirmation. Each Obligor shall indemnify and hold harmless each Indemnitee from any liabilities, losses, costs and expenses arising from any telephonic communication purportedly given by or on behalf of an Obligor.

15.4 Performance of Obligors' Obligations. Agent may, in its discretion at any time and from time to time, at Borrowers' expense, pay any amount or do any act required of an Obligor under any Loan Documents or otherwise lawfully requested by Agent to (a) enforce any Loan Documents or collect any Obligations; (b) protect, insure, maintain or realize upon any Collateral; or (c) defend or maintain the validity or priority of Agent's Liens in any Collateral, including any payment of a judgment, insurance premium, warehouse charge, finishing or processing charge, or landlord claim, or any discharge of a Lien. All payments, costs and expenses (including Extraordinary Expenses) of Agent under this Section shall be reimbursed to Agent by Borrowers, **on demand**, with interest from the date incurred to the date of payment thereof at the Default Rate applicable to Base Rate Loans. Any payment made or action taken by Agent under this Section shall be without prejudice to any right to assert an Event of Default or to exercise any other rights or remedies under the Loan Documents.

15.5 Credit Inquiries. Each Borrower hereby authorizes Agent and Lenders (but they shall have no obligation) to respond to usual and customary credit inquiries from third parties concerning any Borrower or Subsidiary.

15.6 Severability. Wherever possible, each provision of the Loan Documents shall be interpreted in such manner as to be valid under Applicable Law. If any provision is found to be invalid under Applicable Law, it shall be ineffective only to the extent of such invalidity and the remaining provisions of the Loan Documents shall remain in full force and effect.

15.7 Cumulative Effect; Conflict of Terms. The provisions of the Loan Documents are cumulative. The parties acknowledge that the Loan Documents may use several limitations, tests or measurements to regulate similar matters, and they agree that these are cumulative and that each must be performed as provided. Except as otherwise provided in another Loan Document (by specific reference to the applicable provision of this Agreement), if any provision contained herein is in direct conflict with any provision in another Loan Document, the provision herein shall govern and control.

15.8 Counterparts. Any Loan Document may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when Agent has received counterparts bearing the signatures of all parties hereto. Delivery of a signature page of any Loan Document by telecopy or other electronic means shall be effective as delivery of a manually executed counterpart of such agreement.

15.9 Entire Agreement. Time is of the essence of the Loan Documents. The Loan Documents constitute the entire contract among the parties relating to the subject matter hereof, and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

15.10 Relationship with Lenders. The obligations of each Lender hereunder are several, and no Lender shall be responsible for the obligations or Commitments of any other Lender. Amounts payable hereunder to each Lender shall be a separate and independent debt. It shall not be necessary for Agent or any other Lender to be joined as an additional party in any proceeding for such purposes. Nothing in this Agreement and no action of Agent or Lenders pursuant to the Loan Documents shall be deemed to constitute Agent and Lenders to be a partnership, association, joint venture or any other kind of entity, nor to constitute control of any Obligor.

15.11 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated by any Loan Document, Obligors acknowledge and agree that (a)(i) this credit facility and any related arranging or other services by Agent, any Lender, any of their Affiliates or any arranger are arm's-length commercial transactions between Obligors and such Person; (ii) Obligors have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate; and (iii) Obligors are capable of evaluating and understanding, and do understand and accept, the terms, risks and conditions of the transactions contemplated by the Loan Documents; (b) each of Agent, Lenders, their Affiliates and any arranger is and has been acting solely as a principal in connection with this credit facility, is not the financial advisor, agent or fiduciary for Obligors, any of their Affiliates or any other Person, and has no obligation with respect to the transactions contemplated by the Loan Documents except as expressly set forth therein; and (c) Agent, Lenders, their Affiliates and any arranger may be engaged in a broad range of transactions that involve interests that differ from Obligors and their Affiliates, and have no obligation to disclose any of such interests to Obligors or their Affiliates. To the fullest extent permitted by Applicable Law, each Obligor hereby waives and releases any claims that it may have against Agent, Lenders, their Affiliates and any arranger with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated by a Loan Document.

15.12 Confidentiality. Each of Agent, Lenders and Issuing Bank agrees to maintain the confidentiality of all Information (as defined below) with the same degree of care that it uses to protect its own confidential information (but in no event less than a reasonable degree of care), except that Information may be disclosed (a) on a need to know basis to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and representatives (provided such Persons are informed of the confidential nature of the Information and instructed to keep the Information confidential); (b) to the extent requested by any governmental or regulatory authority purporting to have jurisdiction over it (including any self-regulatory

authority); (c) to the extent required by Applicable Law or by any subpoena or similar legal process; (d) to any other party hereto; (e) to the extent necessary in connection with the exercise of any remedies, the enforcement of any rights, or any action or proceeding relating to any Loan Documents; (f) subject to an agreement containing provisions substantially the same as this Section, to any Transferee or any actual or prospective party (or its advisors) to any Bank Product; (g) with the consent of Borrower Agent; or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) is available to Agent, any Lender, Issuing Bank or any of their Affiliates on a nonconfidential basis from a source other than Borrowers; provided that prior to any disclosure pursuant to clause (c), to the extent practicable the party disclosing such Information shall use reasonable efforts to notify (to the extent not prohibited by Applicable Law) Borrower Agent. Notwithstanding the foregoing, Agent and Lenders may publish or disseminate general information describing this credit facility, including the names and addresses of Obligor and a general description of Obligor's businesses, and, subject to the review and approval of Borrower Agent may use Obligor's logos, trademarks or product photographs in advertising materials. As used herein, "Information" means all information received from an Obligor or Subsidiary relating to it or its business that is identified as confidential when delivered. Any Person required to maintain the confidentiality of Information pursuant to this Section shall be deemed to have complied if it exercises the same degree of care that it accords its own confidential information, but in no event less than a reasonable degree of care. Each of Agent, Lenders and Issuing Bank acknowledges that (i) Information may include material non-public information concerning an Obligor or Subsidiary; (ii) it has developed compliance procedures regarding the use of material non-public information; and (iii) it will handle such material non-public information in accordance with Applicable Law, including federal, state, provincial, territorial and foreign securities laws.

15.13 Certifications Regarding Indentures. Obligor certifies to Agent and Lenders that neither the execution nor performance by Obligor of the Loan Documents nor the incurrence of any Obligations by Borrowers violates any of the Indentures. Obligor further certifies that the Commitments and Obligations constitute "Senior Debt" under the Senior Subordinated Indentures. Agent may condition Borrowings, Letters of Credit and other credit accommodations under the Loan Documents from time to time upon Agent's receipt of evidence that the Commitments and Obligations continue to constitute "Senior Debt" at such time.

15.14 GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, UNLESS OTHERWISE SPECIFIED, SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAW PRINCIPLES (BUT GIVING EFFECT TO FEDERAL LAWS RELATING TO NATIONAL BANKS).

15.15 Consent to Forum. EACH OBLIGOR HEREBY CONSENTS TO THE NON-EXCLUSIVE JURISDICTION OF ANY FEDERAL OR STATE COURT SITTING IN OR WITH JURISDICTION OVER NEW YORK, NEW YORK, IN ANY PROCEEDING OR DISPUTE RELATING IN ANY WAY TO ANY LOAN DOCUMENTS, AND AGREES THAT ANY SUCH PROCEEDING SHALL BE BROUGHT BY IT SOLELY IN ANY SUCH COURT. EACH OBLIGOR IRREVOCABLY WAIVES ALL CLAIMS, OBJECTIONS AND DEFENSES THAT IT MAY HAVE REGARDING SUCH COURT'S PERSONAL OR SUBJECT MATTER JURISDICTION, VENUE OR INCONVENIENT FORUM. EACH



PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 15.3.1. Nothing herein shall limit the right of Agent or any Lender to bring proceedings against any Obligor in any other court, nor limit the right of any party to serve process in any other manner permitted by Applicable Law. Nothing in this Agreement shall be deemed to preclude enforcement by Agent of any judgment or order obtained in any forum or jurisdiction.

15.16 Waivers by Obligors. To the fullest extent permitted by Applicable Law, each Obligor waives (a) the right to trial by jury (which Agent and each Lender hereby also waives) in any proceeding or dispute of any kind relating in any way to any Loan Documents, Obligations or Collateral; (b) presentment, demand, protest, notice of presentment, default, non-payment, maturity, release, compromise, settlement, extension or renewal of any commercial paper, accounts, documents, instruments, chattel paper and guaranties at any time held by Agent on which an Obligor may in any way be liable, and hereby ratifies anything Agent may do in this regard; (c) notice prior to taking possession or control of any Collateral; (d) any bond or security that might be required by a court prior to allowing Agent to exercise any rights or remedies; (e) the benefit of all valuation, appraisal and exemption laws; (f) any claim against Agent or any Lender, on any theory of liability, for special, indirect, consequential, exemplary or punitive damages (as opposed to direct or actual damages) in any way relating to any Enforcement Action, Obligations, Loan Documents or transactions relating thereto; and (g) notice of acceptance hereof. Each Obligor acknowledges that the foregoing waivers are a material inducement to Agent and Lenders entering into this Agreement and that Agent and Lenders are relying upon the foregoing in their dealings with Obligors. Each Obligor has reviewed the foregoing waivers with its legal counsel and has knowingly and voluntarily waived its jury trial and other rights following consultation with legal counsel. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

15.17 Patriot Act Notice. Agent and Lenders hereby notify Borrowers that pursuant to the requirements of the Patriot Act, Agent and Lenders are required to obtain, verify and record information that identifies each Borrower, including its legal name, address, tax ID number and other information that will allow Agent and Lenders to identify it in accordance with the Patriot Act. Agent and Lenders will also require information regarding each personal guarantor, if any, and may require information regarding Borrowers' management and owners, such as legal name, address, social security number and date of birth.

15.18 Judgment Currency. If for the purpose of obtaining judgment in any court it is necessary to convert an amount due hereunder in the currency in which it is due (the "Original Currency") into another currency (the "Second Currency"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, Agent could purchase in the New York foreign exchange market, the Original Currency with the Second Currency on the date two (2) Business Days preceding that on which judgment is given. Each Obligor agrees that its obligation in respect of any Original Currency due from it hereunder shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following the date Agent receives payment of any sum so adjudged to be due hereunder in the Second Currency, Agent may, in accordance with normal banking procedures, purchase, in the New York foreign exchange market, the Original Currency with the amount of the Second Currency so paid; and if the amount of the Original Currency so purchased or could

118

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have been so purchased is less than the amount originally due in the Original Currency, each Obligor agrees as a separate obligation and notwithstanding any such payment or judgment to indemnify Agent and Lenders against such loss. The term "rate of exchange" in this **Section 15.18** means the spot rate at which Agent, in accordance with normal practices, is able on the relevant date to purchase the Original Currency with the Second Currency, and includes any premium and costs of exchange payable in connection with such purchase.

15.19 Language. The parties have requested that this Agreement and the other documents contemplated hereby or relating hereto be drawn up in the English language. Les parties ont requis que cette convention ainsi que tous les documents qui y sont envisagés ou qui s'y rapportent soient rédigés en langue anglaise.

15.20 Securitization Subsidiaries. Notwithstanding anything to the contrary herein, in no event shall any Securitization Subsidiary have any liability under any Loan Document for the performance by any Obligor of its obligations thereunder or any liability for the payment or performance of any Obligation.

15.21 Discharge of Obligor Upon Sale of Obligor. If all of the Equity Interests of any Obligor or any of its successors in interest hereunder shall be sold or otherwise disposed of (including by merger, amalgamation or consolidation) in accordance with the terms and conditions hereof, such Obligor or such successor in interest, as the case may be, hereunder shall automatically be discharged and released from its obligations hereunder without any further action by any Secured Party or any other Person effective immediately prior to the time of such sale or disposition.

[Remainder of page intentionally left blank; signatures begin on following page]

119

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IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date set forth above.

**BORROWERS :**

Sanmina-SCI Corporation

By: /s/ Walter Boileau

Name: Walter Boileau

Title: Treasurer

Address:

2700 North First Street  
San Jose, California 95134  
Attn: Treasurer  
Telecopy: (408) 964-3644

Hadco Corporation

Hadco Santa Clara, Inc.

Sanmina-SCI Systems Holdings, Inc.

SCI Technology, Inc.

Scimex, Inc.

By: /s/ Walter Boileau

Name: Walter Boileau

Title: Vice President and Treasurer

Address:

c/o Sanmina-SCI Corporation  
2700 North First Street  
San Jose, California 95134  
Attn: Treasurer  
Telecopy: (408) 964-3644

*[Signature Page to Loan, Guaranty and Security Agreement]*

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**GUARANTORS :**

SCI Brockville Corp.

By: /s/ Shelly L. Byers

Name: Shelly L. Byers

Title: Vice President

Address:

c/o Sanmina-SCI Corporation

2700 North First Street

San Jose, California 95134

Attn: Treasurer

Telecopy: (408) 964-3644

Sanmina-SCI Systems (Canada) Inc.

By: /s/ Walter Boileau

Name: Walter Boileau

Title: Treasurer

Address:

c/o Sanmina-SCI Corporation

2700 North First Street

San Jose, California 95134

Attn: Treasurer

Telecopy: (408) 964-3644

*[Signature Page to Loan, Guaranty and Security Agreement]*

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**BANK OF AMERICA, N.A.,**  
as Agent and Lender

Telecopy: (626) 584-4602

*[Signature Page to Loan, Guaranty and Security Agreement]*

**DEUTSCHE BANK TRUST COMPANY  
AMERICAS** , as Lender

By:       /s/ Paul O'Leary      

Name: Paul O'Leary

Title: Director

By:       /s/ Erin Morrissey      

Name: Erin Morrissey

Title: Vice President

Address:

60 Wall Street, 2<sup>nd</sup> Floor  
New York, New York 10005  
Attn: Paul J. O'Leary  
Telecopy: (212) 250-6133

*[Signature Page to Loan, Guaranty and Security Agreement]*

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**SIEMENS FINANCIAL SERVICES, INC. ,**  
as Lender

By: /s/ Jim Fuller

Name: Jim Fuller

Title: VP and Co-Head

By: /s/ Mark Picillo

Name: Mark Picillo

Title: Vice President

Address:

170 Wood Ave. South

Iselin, New Jersey 08830

Attn:

Telecopy: (732) 590-6648

*[Signature Page to Loan, Guaranty and Security Agreement]*

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**MERRILL LYNCH COMMERCIAL FINANCE  
CORP** , as Lender

By:       /s/ Matt Christensen      

Name: Matt Christensen

Title: Director

Address:

4 World Financial Center  
250 Vesey Street  
New York, New York 10080  
Attn: Dan Spencer  
Telecopy: (312) 269-1348

*[Signature Page to Loan, Guaranty and Security Agreement]*

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## **SANMINA-SCI CORPORATION**

### **CODE OF BUSINESS CONDUCT AND ETHICS**

#### **I. INTRODUCTION**

This Code of Business Conduct and Ethics helps ensure compliance with legal requirements and our standards of business conduct, and it applies to all worldwide employees (including executive officers) of Sanmina-SCI Corporation and its wholly-owned subsidiaries (collectively, the “Company”) and to members of its Board of Directors. All Company employees are expected to read and understand this Code of Business Conduct and Ethics, uphold these standards in day-to-day activities, comply with all applicable policies and procedures, and ensure that all agents and contractors are aware of, understand and adhere to these standards.

Because the principles described in this Code of Business Conduct and Ethics are general in nature, you should also review all applicable Company policies and procedures for more specific instruction, and contact the Human Resources Department or Legal Department if you have any questions.

Nothing in this Code of Business Conduct and Ethics, in any company policies and procedures, or in other related communications (verbal or written) creates or implies an employment contract or term of employment.

We are committed to continuously reviewing and updating our policies and procedures. Therefore, this Code of Business Conduct and Ethics is subject to modification. This Code of Business Conduct and Ethics supersedes all other such codes, policies, procedures, instructions, practices, rules or written or verbal representations to the extent they are inconsistent.

Please sign the acknowledgment form at the end of this Code of Business Conduct and Ethics and return the form to the Human Resources Manager at your facility indicating that you have received, read, understand and agree to comply with the Code of Business Conduct and Ethics. The signed acknowledgment form will be located in your personnel file. Each year, as part of the annual review process, officers and other appropriate personnel will be asked to sign an acknowledgment indicating their continued understanding of and compliance with the Code of Business Conduct and Ethics. In addition, periodically, you may be asked to participate in seminars, training meetings and similar activities related to reinforcing your understanding of this Code of Business Conduct and Ethics and its applicability to the Company’s business.

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## **II. COMPLIANCE IS EVERYONE'S BUSINESS**

Ethical business conduct is critical to our business. As an employee, your responsibility is to respect and adhere to these practices. Many of these practices reflect legal or regulatory requirements. Violations of these laws and regulations can create significant liability for you, the Company, its directors, officers, and other employees.

Part of your job and ethical responsibility is to help enforce this Code of Business Conduct and Ethics. You should be alert to possible violations and report possible violations to the Human Resources Department or the Legal Department. Violations can be reported as follows:

Mike Tyler  
Executive Vice President General Counsel & Corporate Secretary  
Sanmina-SCI Corporation  
2700 N. First St.  
San Jose, CA 95134  
Phone: (408) 964-3156  
Fax: (408) 964-3888

Steven H. Jackman  
Vice President & Corporate Counsel  
Sanmina-SCI Corporation  
2700 N. First St.  
San Jose, CA 95134  
Phone: (408) 964-3617  
Fax: (408) 964-3888  
steven.jackman@sanmina-sci.com

The Company maintains an anonymous Whistleblower Hotline. The Hotline provides a method for employees to confidentially report suspected violations of this Code of Business Conduct and Ethics, either by toll-free phone access or web access. This Hotline is operated by a third-party service provider to ensure anonymity. Employees can access the Hotline as follows:

Telephone: (800) 396-7686

Internet: <https://reportanissue.com>

If you believe that, based on the nature of the suspected improprieties and the persons you believe to be involved, reporting violations to the Human Resources Department or the Legal Department would be ineffective, you may report such violations to the Chairperson of the Audit Committee or to the Chairperson of the Nominating and Governance Committee. Reports can be made to the Chairperson of the Audit Committee or the Chairperson of the Nominating and Governance Committee as follows:

**Audit Committee**

John P. Goldsberry  
Sanmina-SCI Corporation  
2700 N. First Street  
San Jose, CA 95134  
Phone: (408) 964-3850  
jpgiii@yahoo.com

**Nominating and Governance**

Wayne Shortridge  
Carlton Fields  
1201 West Peachtree Street  
Suite 2500  
Atlanta, Georgia 30308  
Phone: (404) 815-3400  
Fax: (404) 815-3415  
wshortridge@carltonfields.com

The Company will promptly and thoroughly investigate all credible allegations of breaches of this Code of Business Conduct and Ethics as appropriate under the circumstances. You must cooperate in any internal or external investigations of possible violations.

You should know that reprisal, threats, retribution or retaliation against any person who has in good faith reported a violation or a suspected violation of law, this Code of Business Conduct or other Company policies, or against any person who is assisting in any investigation or process with respect to such a violation, is both a violation of Company policy and is prohibited by a variety of state and federal civil and criminal laws including the Sarbanes-Oxley Act of 2002. Accordingly, the Company will not permit the making of any reprisal, threats, retribution or retaliation or similar actions against any person making a good faith report of a suspected violation of law, this Code of Business Conduct or other Company policies.

Violations of law, this Code of Business Conduct and Ethics or other Company policies or procedures by Company employees can lead to disciplinary action up to and including termination.

In trying to determine whether any given action is appropriate, use the following test. Imagine that the words you are using or the action you are taking is going to be fully disclosed in the media with all the details, including your photo. If you are uncomfortable with the idea of this information being made public, perhaps you should think again about your words or your course of action.

In all cases, if you are unsure about the appropriateness of an event or action, please seek assistance in interpreting the requirements of these practices by contacting the Legal Department.

### III. YOUR RESPONSIBILITIES TO THE COMPANY AND ITS STOCKHOLDERS

#### A. General Standards of Conduct

The Company expects all employees, agents and contractors to exercise good judgment to ensure the safety and welfare of employees, agents and contractors and to maintain a cooperative, efficient, positive, harmonious and productive work environment and business organization. These standards apply while working on our premises, at offsite locations where our business is being conducted, at Company-sponsored business and social events, or at any other place where you are a representative of the Company. Employees, agents or contractors who engage in misconduct or whose performance is unsatisfactory may be subject to corrective action, up to and including termination. You should review our employment handbook for more detailed information.

#### B. Applicable Laws

All Company employees, agents and contractors must comply with all applicable laws, regulations, rules and regulatory orders. Company employees located outside of the United States must comply with laws, regulations, rules and regulatory orders of the United States, including the Foreign Corrupt Practices Act and the U.S. Export Control Act, in addition to applicable local laws. Each employee, agent and contractor must acquire appropriate knowledge of the requirements relating to his or her duties sufficient to enable him or her to recognize potential dangers and to know when to seek advice from the Legal Department on specific Company policies and procedures. Violations of laws, regulations, rules and orders may subject the employee, agent or contractor to individual criminal or civil liability, as well as to discipline by the Company. Such individual violations may also subject the Company to civil or criminal liability or the loss of business.

#### C. Conflicts of Interest

Each of us has a responsibility to the Company, our stockholders and each other. Although this duty does not prevent us from engaging in personal transactions and investments, it does demand that we avoid situations where a conflict of interest might occur or appear to occur. The Company is subject to scrutiny from many different individuals and organizations. We should always strive to avoid even the appearance of impropriety.

What constitutes conflict of interest? A conflict of interest exists where the interests or benefits of one person or entity conflict with the interests or benefits of the Company. Examples include:

(i) **Employment/Outside Employment** . In consideration of your employment with the Company, you are expected to devote your full attention to the business interests of the Company. You are prohibited from engaging in any activity that interferes with your performance or responsibilities to the Company or is otherwise in conflict with or prejudicial to the Company. Our policies prohibit any employee from accepting simultaneous employment with a Company supplier, customer, developer or competitor, or from taking part in any activity that enhances or supports a competitor's position. Additionally, you must disclose to the Company any

interest that you have that may conflict with the business of the Company. If you have any questions on this requirement, you should contact your supervisor or the Legal Department.

(ii) **Outside Directorships** . It is a conflict of interest to serve as a director of any company that competes with the Company. Although you may serve as a director of a Company supplier, customer, developer, or other business partner, our policy requires that you first notify the Company's Legal Department. The Legal Department will advise the Company's Chief Operating Officer or Chief Executive Officer, and approval of either of such officers is required prior to your acceptance of a directorship. Any compensation you receive should be commensurate to your responsibilities. Such approval may be conditioned upon the completion of specified actions.

(iii) **Business Interests** . If you are considering investing in a Company customer, supplier, developer or competitor, you must first take great care to ensure that these investments do not compromise your responsibilities to the Company. Many factors should be considered in determining whether a conflict exists, including the size and nature of the investment; your ability to influence the Company's decisions; your access to confidential information of the Company or of the other company; and the nature of the relationship between the Company and the other company. Therefore, while owning a few hundred shares of a publicly traded "tier-one" competitor will not, by itself, violate Company policy, ownership of five or ten percent of the outstanding shares of a supplier to the Company might constitute a violation of Company policy.

(iv) **Related Parties** . As a general rule, you should avoid conducting Company business with a relative or significant other, or with a business in which a relative or significant other is associated in any significant role. In cases in which a relative or significant other of an executive officer or director is an employee of the Company, the direct supervisor of such relative or significant other should annually confirm to senior management and to the Company's Board of Directors that such relative's or significant other's employment, performance review or compensation was not influenced in any way by such relationship. Relatives include spouse, sister, brother, daughter, son, mother, father, grandparents, aunts, uncles, nieces, nephews, cousins, step relationships, and in-laws. Significant others include persons living in a spousal (including same sex) or familial fashion with an employee.

If such a related party transaction is unavoidable, you must fully disclose the nature of the related party transaction to the Company's Chief Financial Officer. If determined to be material to the Company by the Chief Financial Officer, the Company's Audit Committee must review and approve in writing in advance these related party transactions. The most significant related party transactions, particularly those involving the Company's directors or executive officers, must be reviewed and approved in writing in advance by the Company's Board of Directors. The Company must report all material related party transactions under applicable accounting rules, Federal securities laws (including rules and regulations of the Securities and Exchange Commission (SEC)), and stock market rules. Any dealings with a related party must be conducted in such a way that no preferential treatment is given to this business.

The Company discourages the employment of relatives and significant others in positions or assignments within the same department and prohibits the employment of these individuals in

positions that have a financial dependence or influence (e.g., an auditing or control relationship, or a supervisor/subordinate relationship). The purpose of this policy is to prevent the organizational impairment and conflicts that are a likely outcome of the employment of relatives or significant others, especially in a supervisor/subordinate relationship.

(v) **Other Situations** . Because other conflicts of interest may arise, it would be impractical to attempt to list all possible situations. If a proposed transaction or situation raises any questions or doubts in your mind you should consult the Legal Department.

#### **D. Corporate Opportunities**

Employees, officers and directors may not exploit for their own personal gain opportunities that are discovered through the use of corporate property, information or position unless the opportunity is disclosed fully in writing to the Company's Board of Directors and the Board of Directors declines to pursue such opportunity.

#### **E. Payments or Gifts**

Under no circumstances may employees, agents, contractors, vendors or consultants: (i) accept any offer, payment, promise to pay, or authorization to pay any money, gift, or anything of value from customers, or (ii) offer to pay, make payment, promise to pay, or issue authorization to pay any money, gift, or anything of value to customers in a manner that is intended, directly or indirectly, to influence any business decision or to cause any action or failure to act that would constitute the commitment of fraud. Inexpensive gifts, infrequent business meals, celebratory events and entertainment, provided that they are not excessive or create an appearance of impropriety, do not violate this policy. Questions regarding whether a particular payment or gift violates this policy are to be directed to Human Resources or the Legal Department.

#### **F. Protecting the Company's Confidential Information**

The Company's confidential information is a valuable asset. The Company's confidential information includes, but is not limited to, product architectures; source codes; product plans and road maps; names and lists of customers, dealers, and employees; and financial information. This information is the property of the Company and may be protected by patent, trademark, copyright and trade secret laws. All confidential information must be used for Company business purposes only. Every employee, agent and contractor must safeguard it. **THIS RESPONSIBILITY INCLUDES NOT DISCLOSING THE COMPANY CONFIDENTIAL INFORMATION SUCH AS INFORMATION REGARDING THE COMPANY'S PRODUCTS OR BUSINESS OVER THE INTERNET UNLESS YOU HAVE CONFIRMED THAT A NONDISCLOSURE AGREEMENT IS IN PLACE AND THAT THE ELECTRONIC COMMUNICATIONS ARE APPROPRIATELY SAFEGUARDED.** This responsibility includes the safeguarding, securing and proper disposal of confidential information in accordance with the Company's policy on Maintaining and Managing Records set forth in Section III.I of this Code of Business Conduct and Ethics. This obligation extends to confidential information of third parties, which the Company has rightfully received under Non-Disclosure Agreements. See the Company's policy dealing with

Handling Confidential Information of Others set forth in Section IV.D of this Code of Business Conduct and Ethics.

(i) **Proprietary Information and Invention Agreement** . When you joined the Company, you signed an agreement to protect and hold confidential the Company's proprietary information. This agreement remains in effect for as long as you work for the Company and after you leave the Company. Under this agreement, you may not disclose the Company's confidential information to anyone or use it to benefit anyone other than the Company without the prior written consent of an authorized Company officer.

(ii) **Disclosure of Company Confidential Information** . To further the Company's business, from time to time our confidential information may be disclosed to potential business partners. However, such disclosure should never be done without carefully considering its potential benefits and risks. If you determine in consultation with your manager and other appropriate Company management that disclosure of confidential information is necessary, you must then contact the Legal Department to ensure that an appropriate written nondisclosure agreement is signed prior to the disclosure. The Company has standard nondisclosure agreements suitable for most disclosures. You must not sign a third party's nondisclosure agreement or accept changes to the Company's standard nondisclosure agreements without review and approval by the Company's Legal Department; provided, however, that this prohibition shall not apply to a document which you are required to sign in order to gain access to a particular location (e.g., the electronic document that certain company's require you to sign in order to get a badge). In addition, all Company materials that contain Company confidential information, including presentations, must be reviewed and approved by either an individual having the title of Vice President or higher or the Company's Legal Department prior to publication or use. Furthermore, any employee publication or publicly made statement that might be perceived or construed as attributable to the Company, made outside the scope of his or her employment with the Company, must be reviewed and approved in writing in advance by the Company's Legal Department and must include the Company's standard disclaimer that the publication or statement represents the views of the specific author and not of the Company.

(iii) **Requests by Regulatory Authorities** . The Company and its employees, agents and contractors must cooperate with appropriate government inquiries and investigations. In this context, however, it is important to protect the legal rights of the Company with respect to its confidential information. All government requests for information, documents or investigative interviews must be referred to the Company's Legal Department. No financial information may be disclosed without the prior written approval of the Chief Financial Officer.

(iv) **Company Spokespeople** . Specific policies have been established regarding who may communicate information to the press and the financial analyst community. All inquiries or calls from the press and financial analysts should be referred to the Chief Financial Officer or Investor Relations Department. The Company has designated its CEO, President/COO, CFO and Investor Relations Department as official Company spokespeople for financial matters. The Company has designated its Investor Relations Department as official Company spokespeople for marketing, technical and other such information. These designees are the only people who may communicate with the press on behalf of the Company.

## **G. Handling the Confidential Information of Others**

The Company has many kinds of business relationships with many companies and individuals. Sometimes, they will volunteer confidential information about their products or business plans to induce the Company to enter into a business relationship. At other times, we may request that a third party provide confidential information to permit the Company to evaluate a potential business relationship with that party. Whatever the situation, we must take special care to handle the confidential information of others responsibly. We handle such confidential information in accordance with our agreements with such third parties. See also the Company's policy on Maintaining and Managing Records in Section III.I of this Code of Business Conduct and Ethics.

(i) **Appropriate Nondisclosure Agreements** . Confidential information may take many forms. An oral presentation about a company's product development plans may contain protected trade secrets. A customer list or employee list may be a protected trade secret. A demo of an alpha version of a company's new software may contain information protected by trade secret and copyright laws.

You should never accept information offered by a third party that is represented as confidential, or which appears from the context or circumstances to be confidential, unless an appropriate nondisclosure agreement has been signed with the party offering the information. **THE LEGAL DEPARTMENT CAN PROVIDE NONDISCLOSURE AGREEMENTS TO FIT ANY PARTICULAR SITUATION, AND WILL COORDINATE APPROPRIATE EXECUTION OF SUCH AGREEMENTS ON BEHALF OF THE COMPANY.** Even after a nondisclosure agreement is in place, you should accept only the information necessary to accomplish the purpose of receiving it, such as a decision on whether to proceed to negotiate a deal. If more detailed or extensive confidential information is offered and it is not necessary, for your immediate purposes, it should be refused.

(ii) **Need-to-Know** . Once a third party's confidential information has been disclosed to the Company, we have an obligation to abide by the terms of the relevant nondisclosure agreement and limit its use to the specific purpose for which it was disclosed and to disseminate it only to other Company employees with a need to know the information. Every employee, agent and contractor involved in a potential business relationship with a third party must understand and strictly observe the restrictions on the use and handling of confidential information. When in doubt, consult the Legal Department.

(iii) **Notes and Reports** . When reviewing the confidential information of a third party under a nondisclosure agreement, it is natural to take notes or prepare reports summarizing the results of the review and, based partly on those notes or reports, to draw conclusions about the suitability of a business relationship. Notes or reports, however, can include confidential information disclosed by the other party and so should be retained only long enough to complete the evaluation of the potential business relationship. Subsequently, they should be either destroyed or turned over to the Legal Department for safekeeping or destruction. The Legal Department will make a judgment as to whether such notes can be destroyed or whether they should be retained in accordance with the Company's records retention policies. Such notes should be

treated just as any other disclosure of confidential information is treated: marked as confidential and distributed only to those the Company employees with a need to know.

(iv) **Competitive Information** . You should never attempt to obtain a competitor's confidential information by improper means, and you should especially never contact a competitor regarding their confidential information. While the Company may, and does, employ former employees of competitors, we recognize and respect the obligations of those employees not to use or disclose the confidential information of their former employers.

## **H. Obligations Under Securities Laws –“Insider” Trading**

Obligations under the U.S. securities laws apply to everyone. In the normal course of business, officers, directors, employees, agents, contractors and consultants of the Company may come into possession of significant, sensitive information. This information is the property of the Company — you have been entrusted with it. You may not profit from it by buying or selling securities yourself, or passing on the information to others to enable them to profit or for them to profit on your behalf. The purpose of this policy is both to inform you of your legal responsibilities and to make clear to you that the misuse of sensitive information is contrary to Company policy and U.S. securities laws.

**Insider trading is a crime, penalized by fines of up to \$5,000,000 and 20 years in jail for individuals. In addition, the SEC may seek the imposition of a civil penalty of up to three times the profits made or losses avoided from the trading. Insider traders must also disgorge any profits made, and are often subjected to an injunction against future violations. Finally, insider traders may be subjected to civil liability in private lawsuits.**

Employers and other controlling persons (including supervisory personnel) are also at risk under U.S. securities laws. Controlling persons may, among other things, face penalties of the greater of \$5,000,000 or three times the profits made or losses avoided by the trader if they recklessly fail to take preventive steps to control insider trading.

Thus, it is important both to you and the Company that insider-trading violations not occur. You should be aware that stock market surveillance techniques are becoming increasingly sophisticated, and the chance that U.S. federal or other regulatory authorities will detect and prosecute even small-level trading is significant. Insider trading rules are strictly enforced, even in instances when the financial transactions seem small. You should contact the Chief Financial Officer or the Legal Department if you are unsure as to whether or not you are free to trade.

The Company has imposed a trading blackout period on members of the Board of Directors, executive officers and certain designated employees who, as a consequence of their position with the Company, are more likely to be exposed to material nonpublic information about the Company. These directors, executive officers and employees generally may not trade in Company securities during the blackout period. In addition, in the event that a trading blackout in Company stock is imposed on participants in the Company's 401(k) Plan or in a Company pension plan with respect to Company Common Stock in such plans, the Company's executive officers and directors will be prohibited from trading during such blackout periods.

For more details, and to determine if you are restricted from trading during trading blackout periods, you should review the Company's Insider Trading Compliance Program. You can request a copy of this policy from the Legal Department. You should take a few minutes to read the Insider Trading Compliance Program carefully, paying particular attention to the specific policies and the potential criminal and civil liability and/or disciplinary action for insider trading violations. Employees, agents and contractors of the Company who violate this Policy are also subject to disciplinary action by the Company, which may include termination of employment or of business relationship. All questions regarding the Company's Insider Trading Compliance Program should be directed to the Company's Chief Financial Officer.

## **I. Prohibition Against Short Selling of Company Stock**

No Company director, officer or other employee, agent or contractor may engage in short sales of the Company's securities. A short sale, as defined in this policy, means any transaction whereby one may benefit from a decline in the Company's stock price. While employees who are not executive officers or directors are not prohibited by law from engaging in short sales of Company's securities, the Company has adopted as policy that employees may not do so.

## **J. Public Reporting Requirements**

(i) **General.** Accounting and other business records are relied upon in the preparation of reports the Company files with certain government agencies, such as the SEC. These reports must contain full, timely and understandable information and accurately reflect the Company's financial condition and results of operations.

(ii) **Employee Responsibilities.** Employees who collect, provide or analyze information for or otherwise contribute in any way in preparing or verifying these reports must strive to ensure that the Company's financial disclosures are accurate and verifiable, thus to enable stockholders and potential investors to assess the soundness and risks of the Company's business and finances and the quality and integrity of the Company's accounting and disclosures. The integrity of the Company's public disclosures depends on the accuracy and completeness of the Company's records. To that end:



- a. All business transactions must be supported by appropriate documentation and reflected accurately in the Company's books and records; in particular, no "side letters" or understandings, oral or written, that deviate from express contractual terms may be entered into;
- b. No entry be made that intentionally mischaracterizes the nature or proper accounting of a transaction;
- c. No employee may take or authorize any action that would cause the Company's financial records or disclosures to fail to comply with generally accepted accounting principles, the rules and regulations of the SEC or other applicable laws, rules and regulations;
- d. All employees must cooperate fully with the Company's independent public accountants and counsel, respond to their questions with candor and provide them with complete and

accurate information to help ensure that the Company's books and records, as well as the Company's reports filed with the SEC, are accurate and complete; and

- e. No employee should knowingly make (or cause or encourage any other person to make) any false or misleading statement in any report filed with the SEC or other government agency, or knowingly omit (or cause or encourage any other person to omit) any information necessary to make the disclosure in any of the Company's reports accurate in all material respects.

Any employee who becomes aware of any departure from these standards has a responsibility to report his or her knowledge promptly to his or her manager or through the Whistleblower Hotline.

## **K. Use of Company's Assets**

(i) **General** . Protecting the Company's assets is a key fiduciary responsibility of every employee, agent and contractor. Care should be taken to ensure that assets are not misappropriated, loaned to others, or sold or donated, without appropriate authorization. All Company employees, agents and contractors are responsible for the proper use of Company assets, and must safeguard such assets against loss, damage, misuse or theft. Employees, agents or contractors who violate any aspect of this policy or who demonstrate poor judgment in the manner in which they use any Company asset may be subject to disciplinary action, up to and including termination of employment or business relationship at the Company's sole discretion. Company equipment and assets are to be used for Company business purposes only. With the exception of computers and cellphones (for which reasonable personal use is allowed, subject to the provisions in subsection III (H) (iv) below), employees, agents and contractors may not use Company assets for personal use, nor may they allow any other person to use Company assets. Employees who have any questions regarding this policy should bring them to the attention of the Company's Human Resources Department.

(ii) **Physical Access Control** . The Company has and will continue to develop procedures covering physical access control to ensure privacy of communications, maintenance of the security of the Company communication equipment, and safeguard Company assets from theft, misuse and destruction. You are personally responsible for complying with the level of access control that has been implemented in the facility where you work on a permanent or temporary basis. You must not defeat or cause to be defeated the purpose for which the access control was implemented.

(iii) **Company Funds** . Every Company employee is personally responsible for all Company funds over which he or she exercises control. Company agents and contractors should not be allowed to exercise control over Company funds. Company funds must be used only for Company business purposes. Every Company employee, agent and contractor must take reasonable steps to ensure that the Company receives good value for Company funds spent, and must maintain accurate and timely records of each and every expenditure. Expense reports must be accurate and submitted in a timely manner. Company employees, agents and contractors must not use Company funds for any personal purpose.

(iv) **Computers and Other Equipment** . The Company strives to furnish employees with the equipment necessary to efficiently and effectively do their jobs. You must care for that equipment and to use it responsibly only for Company business purposes. If you use Company equipment at your home or off site, take precautions to protect it from theft or damage, just as if it were your own. If the Company no longer employs you, you must immediately return all Company equipment. While computers and other electronic devices (including cellphones) are made accessible to employees to assist them to perform their jobs and to promote Company's interests, all such computers and electronic devices, whether used entirely or partially on the Company's premises or with the aid of the Company's equipment or resources, must remain fully accessible to the Company and, to the maximum extent permitted by law, will remain the sole and exclusive property of the Company. You should not install any software on your Company computer which has not been provided to you by the Company.

Employees, agents and contractors should not maintain any expectation of privacy with respect to information transmitted over, received by, or stored in any electronic communications device owned, leased, or operated in whole or in part by or on behalf of the Company. To the extent permitted by applicable law, the Company retains the right to gain access to any information received by, transmitted by, or stored in any such electronic communications device, by and through its employees, agents, contractors, or representatives, at any time, either with or without an employee's or third party's knowledge, consent or approval.

(v) **Software** . All software used by employees to conduct Company business must be appropriately licensed. Never make or use illegal or unauthorized copies of any software, whether in the office, at home, or on the road, since doing so may constitute copyright infringement and may expose you and the Company to potential civil and criminal liability. In addition, use of illegal or unauthorized copies of software may subject the employee to disciplinary action, up to and including termination. The Company's IT Department will inspect Company computers periodically to verify that only approved and licensed software has been installed. Any non-licensed/supported software will be removed.

(vi) **Electronic Usage** . The purpose of this policy is to make certain that employees utilize electronic communication devices in a legal, ethical, and appropriate manner. This policy addresses the Company's responsibilities and concerns regarding the fair and proper use of all electronic communications devices within the organization, including computers, e-mail, connections to the Internet, intranet and extranet and any other public or private networks, voice mail, video conferencing, facsimiles, and telephones. Posting or discussing information concerning the Company's products or business on the Internet without the prior written consent of the Company's CFO is prohibited. Any other form of electronic communication used by employees currently or in the future is also intended to be encompassed under this policy. It is not possible to identify every standard and rule applicable to the use of electronic communications devices. Employees are therefore encouraged to use sound judgment whenever using any feature of our communications systems. The complete set of policies with respect to electronic usage of the Company's assets is located on the Sanmina-SCI intranet site. You are expected to review, understand and follow such policies and procedures.

## **L. Maintaining and Managing Records**

The purpose of this policy is to set forth and convey the Company's business and legal requirements in managing records, including all recorded information regardless of medium or characteristics. Records include paper documents, CDs, computer hard disks, email, floppy disks, microfiche, microfilm or all other media. The Company is required by local, state, federal, foreign and other applicable laws, rules and regulations to retain certain records and to follow specific guidelines in managing its records. Civil and criminal penalties for failure to comply with such guidelines can be severe for employees, agents, contractors and the Company, and failure to comply with such guidelines may subject the employee, agent or contractor to disciplinary action, up to and including termination of employment or business relationship at the Company's sole discretion.

## **M. Records on Legal Hold.**

A legal hold suspends all document destruction procedures in order to preserve appropriate records under special circumstances, such as litigation or government investigations. The Company's Legal Department determines and identifies what types of Company records or documents are required to be placed under a legal hold. Every Company employee, agent and contractor must comply with this policy. Failure to comply with this policy may subject the employee, agent or contractor to disciplinary action, up to and including termination of employment or business relationship at the Company's sole discretion.

The Company's Legal Department will notify you if a legal hold is placed on records for which you are responsible. You then must preserve and protect the necessary records in accordance with instructions from the Company's Legal Department. **RECORDS OR SUPPORTING DOCUMENTS THAT HAVE BEEN PLACED UNDER A LEGAL HOLD MUST NOT BE DESTROYED, ALTERED OR MODIFIED UNDER ANY CIRCUMSTANCES**. A legal hold remains effective until it is officially released in writing by the Company's Legal Department. If you are unsure whether a document has been placed under a legal hold, you should preserve and protect that document while you check with the Company's Legal Department.

If you have any questions about this policy you should contact the Company's Legal Department.

**N. Political Contributions**. The Company reserves the right to communicate its position on important issues to elected representatives and other government officials. It is the Company's policy to comply fully with all local, state, federal, foreign and other applicable laws, rules and regulations regarding political contributions. The Company's funds or assets must not be used for, or be contributed to, political campaigns or political practices under any circumstances without the prior written approval of the Company's Legal Department and, if required, the Board of Directors.

## **O. Foreign Corrupt Practices Act.**

The Company requires full compliance with the Foreign Corrupt Practices Act (FCPA) by all of its employees, agents, and contractors.

The anti-bribery and corrupt payment provisions of the FCPA make illegal any corrupt offer, payment, promise to pay, or authorization to pay any money, gift, or anything of value to any foreign official, or any foreign political party, candidate or official, for the purpose of: influencing any act or failure to act, in the official capacity of that foreign official or party; or inducing the foreign official or party to use influence to affect a decision of a foreign government or agency, in order to obtain or retain business for anyone, or direct business to anyone.

All Company employees, agents and contractors whether located in the United States or abroad, are responsible for FCPA compliance and the procedures to ensure FCPA compliance. All managers and supervisory personnel are expected to monitor continued compliance with the FCPA to ensure compliance with the highest moral, ethical and professional standards of the Company. FCPA compliance includes the Company's policy on Maintaining and Managing Records in Section III.I of this Code of Business Conduct and Ethics.

Laws in most countries outside of the United States also prohibit or restrict government officials or employees of government agencies from receiving payments, entertainment, or gifts for the purpose of winning or keeping business. No contract or agreement may be made with any business in which a government official or employee holds a significant interest, without the prior approval of the Company's Legal Department.

#### **P. Export Controls**

A number of countries maintain controls on the destinations to which products or software may be exported. Some of the strictest export controls are maintained by the United States against countries that the U.S. government considers unfriendly or as supporting international terrorism. The U.S. regulations are complex and apply both to exports from the United States and to exports of products from other countries, when those products contain U.S.-origin components or technology. Software created in the United States is subject to these regulations even if duplicated and packaged abroad. In some circumstances, an oral presentation containing technical data made to foreign nationals in the United States may constitute a controlled export. The Legal Department can provide you with guidance on which countries are prohibited destinations for Company products or whether a proposed technical presentation to foreign nationals may require a U.S. Government license. Accordingly, you should check with the Legal Department in advance of effecting any offshore transaction that may raise concerns regarding compliance with U.S. export control laws.

## **Q. Building Security**

If you suspect any illegal activity, security breach (whether in fences, cages, attempts by unauthorized personnel to gain entry or otherwise), or dangerous situation, it is critical that you report the violation to management, the security guard or to your human resources representative as soon as possible. In the event you come into contact with a person who doesn't have the appropriate badge or other credential, you should politely inquire as to the individual's business on the premises and, if unsatisfied with the response, promptly report the individual to the security guard and/or your human resources representative. In the event of an emergency, you should dial 911 (if you are in the United States) or the appropriate emergency number (if you are outside of the United States).

## **IV. RESPONSIBILITIES TO OUR CUSTOMERS AND OUR SUPPLIERS**

### **A. Customer Relationships**

If your job puts you in contact with any Company customers or potential customers, it is critical for you to remember that you represent the Company to the people with whom you are dealing. Act in a manner that creates value for our customers and helps to build a relationship based upon trust. The Company and its employees have provided products and services for many years and have built up significant goodwill over that time. This goodwill is one of our most important assets, and the Company employees, agents and contractors must act to preserve and enhance our reputation.

### **B. Publications of Others**

The Company subscribes to many publications that help employees do their jobs better. These include newsletters, reference works, online reference services, magazines, books, and other digital and printed works. Copyright law generally protects these works, and their unauthorized copying and distribution constitute copyright infringement. You must first obtain the consent of the publisher of a publication before copying publications or significant parts of them. When in doubt about whether you may copy a publication, consult the Legal Department.

### **C. Selecting Suppliers**

The Company's suppliers make significant contributions to our success. To create an environment where our suppliers have an incentive to work with the Company, they must be confident that they will be treated lawfully and in an ethical manner. The Company's policy is to purchase supplies based on need, quality, service, price and terms and conditions. The Company's policy is to select significant suppliers or enter into significant supplier agreements through a competitive bid process where possible. Under no circumstances should any Company employee, agent or contractor attempt to coerce suppliers in any way. The confidential information of a supplier is entitled to the same protection as that of any other third party and must not be received before an appropriate nondisclosure agreement has been signed. A supplier's performance should generally not be discussed with anyone outside the Company. A supplier to the Company is generally free to sell its products or services to any other party, including competitors of the Company. In some cases where the products or services have been designed, fabricated, or developed to our specifications the agreement between the parties may contain restrictions on sales.

#### **D. Government Relations**

It is the Company's policy to comply fully with all applicable laws and regulations governing contact and dealings with government employees and public officials, and to adhere to high ethical, moral and legal standards of business conduct. This policy includes strict compliance with all local, state, federal, foreign and other applicable laws, rules and regulations. If you have any questions concerning government relations you should contact the Company's Legal Department.

#### **E. Lobbying**

Employees, agents or contractors whose work requires lobbying communication with any member or employee of a legislative body or with any government official or employee in the formulation of legislation must have prior written approval of such activity from the Company's Legal Department. Activity covered by this policy includes meetings with legislators or members of their staffs or with senior executive branch officials. Preparation, research, and other background activities that are done in support of lobbying communication are also covered by this policy even if the communication ultimately is not made.

#### **F. Government Contracts**

It is the Company's policy to comply fully with all applicable laws and regulations that apply to government contracting. It is also necessary to strictly adhere to all terms and conditions of any contract with local, state, federal, foreign or other applicable governments. The Company's Legal Department must review and approve all contracts with any government entity.

#### **G. Free and Fair Competition**

Most countries have well-developed bodies of law designed to encourage and protect free and fair competition. The Company is committed to obeying both the letter and spirit of these laws. The consequences of not doing so can be severe for all of us.

These laws often regulate the Company's relationships with its distributors, resellers, dealers, and customers. Competition laws generally address the following areas: pricing practices (including price discrimination), discounting, terms of sale, credit terms, promotional allowances, secret rebates, exclusive dealerships or distributorships, product bundling, restrictions on carrying competing products, termination, and many other practices.

Competition laws also govern, usually quite strictly, relationships between the Company and its competitors . **AS A GENERAL RULE, CONTACTS WITH COMPETITORS SHOULD BE LIMITED AND SHOULD ALWAYS AVOID SUBJECTS SUCH AS PRICES OR OTHER TERMS AND CONDITIONS OF SALE, CUSTOMERS, AND SUPPLIERS.** Employees, agents or contractors of the Company may not knowingly make false or misleading statements regarding its competitors or the products of its competitors, customers or suppliers. Participating with competitors in a trade association or in a standards creation body is acceptable when the association has been properly established, has a legitimate purpose, and has limited its activities to that purpose. Membership in trade associations should be approved in advance by the Legal Department.

No employee, agent or contractor shall at any time or under any circumstances enter into an agreement or understanding, written or oral, express or implied, with any competitor concerning prices, discounts, other terms or conditions of sale, profits or profit margins, costs, allocation of product or geographic markets, allocation of customers, limitations on production, boycotts of customers or suppliers, or bids or the intent to bid or even discuss or exchange information on these subjects. In some cases, legitimate joint ventures with competitors may permit exceptions to these rules as may bona fide purchases from or sales to competitors on non-competitive products, but the Company's Legal Department must review all such proposed ventures in advance. These prohibitions are absolute and strict observance is required. Collusion among competitors is illegal, and the consequences of a violation are severe.

Although the spirit of these laws, known as "antitrust," "competition," or "consumer protection" or unfair competition laws, is straightforward, their application to particular situations can be quite complex. To ensure that the Company complies fully with these laws, each of us should have a basic knowledge of them and should involve our Legal Department early on if it appears that a questionable situations may arise.

## **H. Industrial Espionage**

It is the Company's policy to lawfully compete in the marketplace. This commitment to fairness includes respecting the rights of our competitors and abiding by all applicable laws in the course of competing. The purpose of this policy is to maintain the Company's reputation as a lawful competitor and to help ensure the integrity of the competitive marketplace. The Company expects its competitors to respect our rights to compete lawfully in the marketplace, and we must respect their rights equally. Company employees, agents and contractors may not steal or unlawfully use the information, material, products, intellectual property, or proprietary or confidential information of anyone including suppliers, customers, business partners or competitors.

## **V. WAIVERS**

Any waiver of any provision of this Code of Business Conduct and Ethics for a member of the Company's Board of Directors or an executive officer must be approved in writing prior to the proposed transaction by the Company's Board of Directors and promptly publicly disclosed. Any waiver of any provision of this Code of Business Conduct and Ethics with respect any other employee, agent or contractor must be approved in writing prior to the proposed transaction by the Company's Legal Department.

## **VI. DISCIPLINARY ACTIONS**

The matters covered in this Code of Business Conduct and Ethics are of the utmost importance to the Company, its stockholders and its business partners, and are essential to the Company's ability to conduct its business in accordance with its stated values. We expect all of our employees, agents, contractors and consultants to adhere to these rules in carrying out their duties for the Company.



The Company will take appropriate action against any employee, agent, contractor or consultant whose actions are found to violate these policies or any other policies of the Company. Disciplinary actions may include immediate termination of employment or business relationship at the Company's sole discretion. Where the Company has suffered a loss, it may pursue its remedies against the individuals or entities responsible. Where laws have been violated, the Company will cooperate fully with the appropriate authorities. You should review the Company's policies and procedures at the Sanmina-SCI intranet site for more detailed information.

## **VII. ACKNOWLEDGMENT OF RECEIPT OF CODE OF BUSINESS CONDUCT AND ETHICS**

I have received and read the Company's Code of Business Conduct and Ethics. I understand the standards and policies contained in the Company Code of Business Conduct and Ethics and understand that there may be additional policies or laws specific to my job. I further agree to comply with the Company Code of Business Conduct and Ethics.

If I have questions concerning the meaning or application of the Company Code of Business Conduct and Ethics, any Company policies, or the legal and regulatory requirements applicable to my job, I know I can consult my manager, the Human Resources Department or the Legal Department, knowing that my questions or reports to these sources will be maintained in confidence.

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Employee Name

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Signature

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Date

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Location (Facility)

Please sign and return this form to the Human Resources Manager at your facility.

**LIST OF SUBSIDIARIES**

	<b>Jurisdiction</b>
AET Holdings Limited(24)	Mauritius
AET Holland C.V.(33)	Netherlands
CMS Mexicana S.A. de C.V.(30)	Mexico
Continental Circuits International Inc.(4)	Barbados
Davos Group Limited(6)	British Virgin Islands
Hadco Corporation(12)	Massachusetts, USA
Hadco Foreign Sales Corp.(4)	US Virgin Islands
Hadco Ireland Limited(4)	Ireland
Hadco Santa Clara, Inc.(4)	Delaware, USA
Pentex-Schweizer Circuits GmbH(32)	Germany
PT. Sanmina-SCI Batam(22)	Indonesia
Sanmina (B.V.I.)(12)	British Virgin Islands
Sanmina-SCI AB(19)	Sweden
Sanmina Cayman Ltd.(7)	British West Indies
Sanmina-SCI Corporation (Malaysia) Sdn Bhd(5)	Malaysia
Sanmina Enclosure Systems Hungary Limited Liability Company(12)	Hungary
Sanmina Enclosure Systems Limited(25)	Scotland
Sanmina Foreign Sales Corporation(12)	Barbados
Sanmina France SAS(9)	France
Sanmina International AG(12)	Switzerland
Sanmina SAS(12)	France
Sanmina-SCI (Asia) Limited(6)	Hong Kong
Sanmina-SCI (China) Limited(6)	Hong Kong
Sanmina-SCI (H.K.) Limited(6)	Hong Kong
Sanmina-SCI (Shenzhen) Ltd.(11)	China
Sanmina-SCI Systems (Taiwan) Limited(24)	Hong Kong
Sanmina-SCI Australia PTY LTD(18)	Australia
Sanmina-SCI Cable Systems de Monterey S de R.L. de C.V.(12)	Mexico
Sanmina-SCI Cable Systems GmbH(17)	Germany
Sanmina-SCI Cable Systems Services, S. de R.L. de C.V.(12)	Mexico
Sanmina-SCI Circuits (Wuxi) Co. Ltd.(11)	P.R.C.
Sanmina-SCI Circuits Pte Ltd(11)	Singapore
Sanmina-SCI Electronics Pte Ltd.(32)	Singapore
Sanmina-SCI Investments Pte Ltd.(32)	Singapore
Sanmina-SCI Corporation	Delaware, USA
Sanmina-SCI Central Services	France
Sanmina-SCI de Mexico S.A. de C.V.(12)	Mexico
Sanmina-SCI do Brasil Integration Ltd(13)	Brazil
Sanmina-SCI do Brasil Ltda(12)	Brazil
Sanmina-SCI do Brasil Technology Ltda(22)	Brazil
Sanmina-SCI Systems (Kunshan) Co., Limited(11)	China
Sanmina-SCI Enclosure Systems (Shenzhen) Limited(14)	China
Sanmina-SCI Enclosure Systems (Suzhou) Co. Ltd.(14)	China
Sanmina-SCI Enclosure Systems Lisburn Limited(25)	Northern Ireland
Sanmina-SCI Enclosure Systems, (Asia) Ltd(3)	Hong Kong
Sanmina-SCI Enclosure Systems Oy(19)	Finland
Sanmina-SCI Enclosure Systems AB(19)	Sweden
Sanmina-SCI Espana, S.L.U.(22)	Spain
Sanmina-SCI France EMS(9)	France

	<b>Jurisdiction</b>
Sanmina-SCI France Real Estate(9)	France
Sanmina-SCI GmbH(12)	Germany
Sanmina-SCI Germany GmbH(17)	Germany
Sanmina-SCI Haukipudas Oy(22)	Finland
Sanmina-SCI Holding AB(7)	Sweden
Sanmina-SCI Holdings GmbH & Co. KG(12)	Germany

Sanmina-SCI Holdings Australia PTY LTD(22)	Australia
Sanmina-SCI Hungary Electronics Manufacturing Limited Liability Company(22)	Hungary
Sanmina-SCI India Private Limited(1)	India
Sanmina-SCI International GmbH(7)	Switzerland
Sanmina-SCI Ireland(28)	Ireland
Sanmina-SCI Israel EMS Ltd(22)	Israel
Sanmina-SCI Israel Medical Systems, Ltd(22)	Israel
Sanmina-SCI Kista AB(16)	Sweden
Sanmina-SCI Luxembourg S.a.r.l.(26)	Luxembourg
Sanmina-SCI Management GmbH(29)	Germany
Sanmina-SCI Netherlands B.V.(29)	Netherlands
Sanmina-SCI Netherlands Holding LLC(12)	Delaware, USA
Sanmina-SCI PCB Europe GmbH & Co. KG(15)	Germany
Sanmina-SCI RSP de Mexico, S.A. de C.V.(12)	Mexico
Sanmina-SCI RSP Systems Services S.A. de C.V.(20)	Mexico
Sanmina-SCI Systems (Canada) Inc.(12)	Canada
Sanmina-SCI Systems (Malaysia) SDN BHD(22)	Malaysia
Sanmina-SCI Systems (Thailand) Limited(12)	Thailand
Sanmina-SCI Systems de Mexico S.A. de C.V.(31)	Mexico
Sanmina-SCI Systems Holdings, Inc.(12)	Delaware, USA
Sanmina-SCI Systems Ireland Limited(12)	Ireland
Sanmina-SCI Systems Israel Ltd(22)	Israel
Sanmina-SCI Systems Japan, LTD (KK)(22)	Japan
Sanmina-SCI Systems Services de Mexico S.A. de C.V.(21)	Mexico
Sanmina-SCI Systems Singapore PTE. LTD.(30)	Singapore
Sanmina-SCI Systems Tel Aviv Ltd.(23)	Israel
Sanmina-SCI Technology India Private Limited(24)	India
Sanmina-SCI UK Limited(22)	UK
Sanmina-SCI UKLP(2)	UK
Sanmina-SCI Verwaltungs GmbH(12)	Germany
Sanmina-SCI Pte. Ltd.(24)	Singapore
Sanmina-SCI/Tag de Mexico, S.A. de C.V.(31)	Mexico
Sanmina SPV LLC	Delaware
SCI Brockville Corporation(22)	Canada
SCI Foreign Sales, Inc.(12)	Barbados
SCI France, S.A.(27)	France
SCI Holdings France SAS(22)	France
Sanmina-SCI Netherlands Holding B.V.(2)	Netherlands
SCI Systems Sweden AB(22)	Sweden
SCI Technology, Inc.(12)	Alabama, USA
SCIMEX, Inc.(12)	Alabama, USA
Sanmina-SCI Eskilstuna AB(19)	Sweden
Viking Components Ireland Limited(28)	Ireland

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(1) A subsidiary of AET Holdings Limited

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- (2) A subsidiary of AET Holland C.V.
  - (3) A subsidiary of Davos Group Limited
  - (4) A subsidiary of Hadco Corporation
  - (5) A subsidiary of Hadco Santa Clara, Inc.
  - (6) A subsidiary of Sanmina (B.V.I.)
  - (7) A subsidiary of Sanmina International AG
  - (8) A subsidiary of Sanmina Limited, L.L.C.
  - (9) A subsidiary of Sanmina SAS
  - (10) A subsidiary of Sanmina-SCI (Asia) Limited
  - (11) A subsidiary of Sanmina-SCI (China) Limited
  - (12) A subsidiary of Sanmina-SCI Corporation
  - (13) A subsidiary of Sanmina-SCI do Brasil Technology Ltda
  - (14) A subsidiary of Sanmina-SCI Enclosure Systems, (Asia) Ltd
  - (15) A subsidiary of Sanmina-SCI GmbH
  - (16) A subsidiary of Sanmina-SCI Holding AB
  - (17) A subsidiary of Sanmina-SCI Holdings GmbH & Co. KG
  - (18) A subsidiary of Sanmina-SCI Holdings PTY LTD
  - (19) A subsidiary of Sanmina-SCI Kista AB
  - (20) A subsidiary of Sanmina-SCI RSP de Mexico S.A. de C.V.
  - (21) A subsidiary of Sanmina-SCI Systems de Mexico S.A. de C.V.
  - (22) A subsidiary of Sanmina-SCI Systems Holdings, Inc.
  - (23) A subsidiary of Sanmina-SCI Systems Israel Ltd
  - (24) A subsidiary of Sanmina-SCI Systems Singapore PTE. LTD.
  - (25) A subsidiary of Sanmina-SCI UK Limited
  - (26) A subsidiary of Sanmina-SCI UKLP
  - (27) A subsidiary of SCI Holdings France SAS
  - (28) A subsidiary of Sanmina-SCI Systems Ireland Limited
  - (29) A subsidiary of Sanmina-SCI Netherlands Holding B.V.
  - (30) A subsidiary of SCI Technology, Inc.
  - (31) A subsidiary of SCIMEX, Inc.
  - (32) A subsidiary of Sanmina-SCI Pte Ltd.
  - (33) A subsidiary of Sanmina-SCI Netherlands Holding LLC
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EXHIBIT 21.1

LIST OF SUBSIDIARIES

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The Board of Directors  
Sanmina-SCI Corporation:

We consent to the incorporation by reference in the registration statement on Form S-3 (Nos. 333-131360, 333-61042, 333-50282, 333-39316, 333-95467, 333-84221, 333-84039, 333-76279, 333-71313 and 33-97782) and Form S-8 (Nos. 333-112605, 333-108942, 333-104692, 333-100236, 333-87946, 333-84704, 333-83110, 333-75616, 333-64294, 333-39930, 333-79259, 333-23565, 33-90244 and 33-66554) of Sanmina-SCI Corporation of our reports dated November 24, 2008, with respect to the consolidated balance sheets of Sanmina-SCI Corporation as of September 27, 2008 and September 29, 2007, and the related consolidated statements of operations, comprehensive loss, stockholders' equity, and cash flows for each of the fiscal years in the three-year period ended September 27, 2008, and the related financial statement schedule, and the effectiveness of internal control over financial reporting as of September 27, 2008, which reports appear in the September 27, 2008 annual report on Form 10-K of Sanmina-SCI Corporation.

Our report dated November 24, 2008 refers to accounting changes upon adoption of Financial Accounting Standards Board Interpretation No. 48, *Accounting for Uncertainty in Income Taxes—an interpretation of FASB Statement No. 109*, at the beginning of fiscal 2008, adoption of Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans—an amendment of FASB Statements No. 87, 88, 106 and 132R*, in fiscal 2007, and adoption of Statement of Financial Accounting Standards No. 123R, *Shared-Based Payment*, at the beginning of fiscal 2006.

/s/ KPMG LLP  
Mountain View, California  
November 24, 2008

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[EXHIBIT 23.1](#)

[CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM](#)



**CERTIFICATION**

I, Jure Sola, certify that:

1. I have reviewed this report on Form 10-K of Sanmina-SCI Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 24, 2008

/s/ JURE SOLA

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Jure Sola  
Chief Executive Officer

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QuickLinks

EXHIBIT 31.1

CERTIFICATION

**CERTIFICATION**

I, David L. White, certify that:

1. I have reviewed this report on Form 10-K of Sanmina-SCI Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 24, 2008

/s/ DAVID L. WHITE

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David L. White  
Chief Financial Officer

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QuickLinks

EXHIBIT 31.2

CERTIFICATION

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350), Jure Sola, Chief Executive Officer of Sanmina-SCI Corporation (the "Company") hereby certifies that, to the best of his knowledge:

1. The Company's Annual Report on Form 10-K for the fiscal year ended September 27, 2008 to which this Certification is attached as Exhibit 32.1 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act; and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

**IN WITNESS WHEREOF** , the undersigned has set his hand hereto as of November 24, 2008.

/s/ JURE SOLA

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Jure Sola  
Chief Executive Officer

This certification accompanies the Form 10-K to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Sanmina-SCI Corporation under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form 10-K), irrespective of any general incorporation language contained in such filing.

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EXHIBIT 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

**CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350), David L. White, Executive Vice President and Chief Financial Officer of Sanmina-SCI Corporation (the "Company") hereby certifies that, to the best of his knowledge:

1. The Company's Annual Report on Form 10-K for the fiscal year ended September 27, 2008, to which this Certification is attached as Exhibit 32.2 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act; and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

**IN WITNESS WHEREOF** , the undersigned has set his hand hereto as of November 24, 2008.

/s/ DAVID L. WHITE

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David L. White  
Executive Vice President and  
Chief Financial Officer

This certification accompanies the Form 10-K to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Sanmina-SCI Corporation under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form 10-K), irrespective of any general incorporation language contained in such filing.

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EXHIBIT 32.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002