

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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): March 30, 2018

**Applied Optoelectronics, Inc.**  
(Exact name of Registrant as specified in its charter)

**Delaware**  
(State of Incorporation)

**001-36083**  
(Commission File Number)

**76-0533927**  
(I.R.S. Employer Identification No.)

**13139 Jess Pirtle Blvd.**  
**Sugar Land, TX 77478**  
(address of principal executive offices and zip code)

**(281) 295-1800**  
(Registrant's telephone number, including area code)

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

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

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

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

**Item 1.01 Entry into a Material Definitive Agreement.**

On March 30, 2018, Applied Optoelectronics, Inc. (the “Company”) executed a First Amendment to Loan Agreement, a Note Modification Agreement and Addendum to Promissory Note for \$60 million, a Promissory Note and Addendum to Promissory Note for \$26 million, a Promissory Note and Addendum to Promissory Note for \$21.5 million, a Texas Deed of Trust and Security Agreement, an Assignment of Lease and Rent, and an Environmental Certification and Indemnity Agreement, (collectively, the “Amended Credit Facility”), with Branch Banking and Trust Company (the “Lender”).

The Amended Credit Facility amends the Company’s three-year \$50 million line of credit with the Lender, originally executed on September 28, 2017 (the “Existing Loan”). The Amended Credit Facility (1) increases the principal amount of the three-year line of credit from \$50 million to \$60 million (the “Line of Credit”); (2) allows the Company to borrow an additional \$26 million from Lender in the form of a five-year capital expenditure loan (the “CapEx Loan”) and (3) allows the Company to borrow an additional \$21.5 million in the form of a seventy-month real estate term loan (the “Term Loan”) to refinance the Company’s plant and facilities in Sugar Land, Texas.

Borrowings under the Line of Credit will bear interest at a rate equal to the one-month London Interbank Offered Rate (LIBOR) plus a Line of Credit margin ranging between 1.40% and 2.0%. Borrowings under the CapEx Loan will bear interest at a rate equal to the one-month LIBOR plus a CapEx Loan margin ranging between 1.30% and 2.0%. Borrowings under the Term Loan will bear interest at a rate equal to the one-month LIBOR plus a Term Loan margin ranging between 1.15% and 2.0%. The Company will make monthly payments of principal and accrued interest with the final monthly payments being for all principal and accrued interest not yet paid.

The Company’s obligations under the Amended Credit Facility will be secured by the Company’s accounts receivable, inventory, equipment, intellectual property, real property, and virtually all business assets.

The Amended Credit Facility requires the Company to maintain certain financial covenants and also contains representations and warranties and covenants applicable to the Company that are customary for agreements of this type.

The foregoing description of the Amended Credit Facility does not purport to be a complete statement of the parties’ rights and obligations under the Amended Credit Facility and is qualified in its entirety by reference to the full text of the First Amendment to Loan Agreement, the Note Modification Agreement, the Addendum to Promissory Note for \$60 million, the Promissory Note and Addendum to Promissory Note for \$26 million, the Promissory Note and Addendum to Promissory Note for \$21.5 million, the Texas Deed of Trust and Security Agreement, the Assignment of Lease and Rent, and the Environmental Certification and Indemnity Agreement, all dated March 30, 2018, copies of which are attached as Exhibit 10.1 through 10.10 to this Current Report on Form 8-K and incorporated by reference herein.

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

The information contained in Item 1.01 of this Current Report on Form 8-K with respect to the Credit Facility is incorporated by reference herein and made a part hereof.



**FIRST AMENDMENT TO LOAN AGREEMENT AND  
FIRST AMENDMENT TO SECURITY AGREEMENT**

THIS FIRST AMENDMENT TO LOAN AGREEMENT AND FIRST AMENDMENT TO SECURITY AGREEMENT (this "Amendment") is made and entered into this 30th day of March, 2018, by and between **APPLIED OPTOELECTRONICS, INC.**, a Delaware corporation (hereinafter referred to as "Borrower") with its chief executive office and principal place of business at 13139 Jess Pirtle Blvd., Sugar Land, Texas 77478, and **BRANCH BANKING AND TRUST COMPANY**, a North Carolina corporation (hereinafter referred to as "Bank") with an office at 333 Clay Street, Suite 3800, Houston, Texas 77002.

**Recitals:**

Bank and Borrower are parties to a certain Loan Agreement dated September 28, 2017 (as at any time amended, restated, supplemented or otherwise modified, the "Loan Agreement"), pursuant to which Bank has made loans and other financial accommodations to Borrower.

Bank and Borrower are also parties to that certain Security Agreement dated September 28, 2017 (as at any time amended, restated, supplemented or otherwise modified, the "Security Agreement"), pursuant to which Borrower granted a security interest in certain of its personal property in favor of Bank to secure Borrower's obligations under the Loan Agreement, the Security Agreement, and the Note (as defined in the Security Agreement).

Borrower has requested that Bank increase the maximum principal amount of the Line of Credit from \$50,000,000 to \$60,000,000 and provide additional loans to Borrower in the aggregate maximum principal amount of \$50,000,000. Bank is willing to increase the maximum principal amount of the Line of Credit and to provide such additional loans, in each case on the terms and subject to the conditions of this Amendment.

The parties also desire to amend the Loan Agreement and the Security Agreement as hereinafter set forth.

NOW, THEREFORE, for TEN DOLLARS (\$10.00) in hand paid and other good and valuable consideration, the receipt and sufficiency of which are hereby severally acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

**1. Definitions.** Capitalized terms used in this Amendment, unless otherwise defined herein, shall have the respective meanings ascribed to such terms in the Loan Agreement.

**2. Amendments to Loan Agreement.** The Loan Agreement is hereby amended as follows:

(a) By deleting the reference to "\$50,000,000" contained in the paragraph entitled "**Line of Credit**" on page 1 of the Loan Agreement, and by substituting in lieu thereof a reference to "\$60,000,000."

(b) By deleting the last sentence of the paragraph entitled "**Line of Credit**" on page 1 of the Loan Agreement, and by substituting in lieu thereof the following:

Unused Line Fee: Borrower shall pay the Bank, quarterly in arrears on the last day of each calendar quarter, an unused fee on the Line of Credit (but not the Term Loan or the CapEx Loan) equal to (a) if Borrower's Funded Debt to EBITDA ratio is less than or equal to 2.0 to 1.0, 0.15% per annum and (b) if Borrower's Funded Debt to EBITDA ratio is greater than 2.0 to 1.0, 0.20% per annum, in each case on the average daily unused amount of the Line of Credit (but not the Term Loan or the CapEx Loan) for such calendar quarter calculated on the basis of a year of 360 days for the actual number of days elapsed.

(c) By adding the following new paragraphs to page 1 of the Loan Agreement immediately following the paragraph entitled “**Line of Credit**”:

**Term Loan** (“Term Loan”) in the principal amount of \$21,500,000.00, for the purpose of purchasing equipment and funding improvements and other business purposes for Borrower’s facility located at 13139 Jess Pirtle Blvd., Sugar Land, Texas 77478 (“Borrower’s Headquarters”), which shall be evidenced by a Promissory Note made by Borrower to the order of Bank dated the First Amendment Date in the principal amount of the Term Loan (the “Term Note”) payable in seventy-two (72) consecutive monthly installments and shall bear interest at the rate set forth in such Term Note, the terms of which are incorporated herein by reference. The Term Loan shall mature on April 1, 2024, when the entire unpaid balance then outstanding plus accrued interest thereon shall be paid in full. The Term Loan shall be secured by a first and prior lien and security interest in the Borrower’s real property, fixtures and improvements situated in Fort Bend County, Texas, pursuant to the terms of applicable security instruments listed below.

Borrower shall prepay the principal balance of the Term Loan sixty (60) days after receipt of, and in an amount equal to, the net proceeds received with respect to the disposition of any equipment financed with the Term Loan, and with respect to the disposition of any replacement for any such equipment (provided, that, no such prepayment shall be required if (a) no Event of Default exists at the time of any such disposition or at any time during the sixty (60) day period immediately thereafter and (b) such equipment is replaced within sixty (60) days of such disposition by similar equipment of at least the same or better value and such replacement equipment is stored at all times at Borrower’s Headquarters). Nothing in this Amendment constitutes Bank’s consent to any disposition of any such equipment. Bank shall apply any payments made under this subsection to any accrued interest on the Term Loan and then to principal of the Term Loan as determined by Bank but in the inverse order of the maturities thereof or in such other order and to such other obligations of Borrower under the Loan Documents as determined by Bank.

**CapEx Loan**

During the period beginning on March 30, 2018, and ending on March 30, 2019 (such period is referred to herein as the “CapEx Loan Term”), and subject to the terms and conditions of this Agreement (including, without limitation, the CapEx Loan Conditions (as defined below)) and the other Loan Documents, Bank agrees to make one or more additional advances to Borrower (“CapEx Loan Advances”), the proceeds of which may only be used for the purchase of Approved Equipment (as defined below). The aggregate amount of CapEx Loan Advances is referred to herein as the “CapEx Loan.” The CapEx Loan shall be evidenced by a Promissory Note made by Borrower payable to the order of Bank and dated the First Amendment Date, in the maximum aggregate principal amount of the CapEx Loan, and interest shall accrue on CapEx Loan Advances at the rate set forth in such Promissory Note.

Borrower shall repay the principal amount of and accrued interest on each CapEx Loan Advance in sixty (60) consecutive monthly installments, each in an amount equal to 1/60th of the aggregate amount of such CapEx Loan Advance, and each such monthly installment shall be due and payable commencing on the one-month anniversary of such CapEx Loan Advance, and continued on the same day of each calendar period thereafter. If not sooner paid, all outstanding principal and interest on each CapEx Loan Advance shall be due and payable in full on the fifth (5th) anniversary of such CapEx Loan Advance.

Borrower shall prepay the principal balance of the CapEx Loan Advances sixty (60) days after receipt of, and in an amount equal to, the net proceeds received with respect to the disposition of any equipment financed with a CapEx Loan Advance, and with respect to the disposition of any replacement for any such equipment (provided, that, no such prepayment shall be required if (a) no Event of Default exists at the time of any such disposition or at any time during the sixty (60) day period immediately thereafter and (b) such equipment is replaced within sixty (60) days of any such disposition by similar equipment of at least the same or better value and such replacement equipment is stored at all times at Borrower's Headquarters). Nothing in this Amendment constitutes Bank's consent to any disposition of any such equipment. Bank shall apply any payments made under this subsection to any accrued interest on the CapEx Loan and then to principal of the CapEx Loan as determined by Bank but in the inverse order of the maturities thereof or in such other order and to such other obligations of Borrower under the Loan Documents as determined by Bank.

#### **CapEx Loan – Miscellaneous**

(a) In no event shall Bank have any obligation to honor a request of Borrower for a CapEx Loan Advance unless each of the CapEx Loan Conditions is satisfied at the time of the request.

(b) Borrower shall deliver such additional promissory notes to evidence any CapEx Loan Advance or the CapEx Loan, as the case may be, as requested by Bank in its sole and absolute discretion.

(c) Borrower may not reborrow any repaid principal of any CapEx Loan Advance. Borrower shall use the proceeds of each CapEx Loan Advance only for the purchase of Approved Equipment. If Borrower has requested a CapEx Loan Advance, each of the CapEx Loan Conditions must be satisfied with respect to such CapEx Loan Advance.

(d) A request for a CapEx Loan Advance shall be made or shall be deemed to be made when Borrower shall deliver to Bank a written request for a CapEx Loan Advance (which may be delivered electronically), in which request Borrower shall specify the amount of the proposed borrowing and the proposed borrowing date; provided, however, that no such request may be made at a time when there exists an Event of Default or an event which, with the passage of time or giving of notice, would become an Event of Default; provided, further, that Borrower may request a CapEx Loan Advance no more frequently than one time per fiscal quarter.

(e) Borrower hereby irrevocably authorizes Bank to disburse the proceeds of each CapEx Loan Advance requested by Borrower, or deemed to be requested by Borrower, as follows: the proceeds of such CapEx Loan Advance shall be disbursed by Bank in lawful money of the United States of America in immediately available funds by wire transfer or Automated Clearing House (ACH) transfer to such bank account as may be agreed upon by Borrower and Bank from time to time, or elsewhere if pursuant to a written direction from Borrower (which may be delivered electronically).

(f) The CapEx Loan shall be secured by a first and prior lien and security interest in Borrower's existing and hereafter acquired accounts, inventory, equipment and other personal property pursuant to the terms of applicable security instruments listed below.

(d) By deleting the entire paragraph on page 1 of the Loan Agreement that begins with "Additional terms, conditions and covenants of this Agreement", and by substituting in lieu thereof the following new paragraph:

Additional terms, conditions and covenants of this Agreement are described in Schedule DD, Schedule EE, or any other schedule attached hereto, the terms of which are incorporated herein by reference. The promissory notes evidencing the Line of Credit, the Term Loan and the CapEx Loan are referred to herein collectively as the "Note", the "Note(s)" or the "Notes" and shall include all extensions, renewals, modifications and substitutions thereof. Bank may, at its sole discretion, effect payment of any sums past due under each Note and any fees or reimbursable expenses due by debiting Borrower's operating or other deposit account maintained with Bank.

(e) By deleting the paragraph beginning "**Total Liabilities to Tangible Net Worth**" contained in Section 5 of the Loan Agreement in its entirety, and by substituting in lieu thereof the following new paragraph:

**Funded Debt to EBITDA:** A ratio of Funded Debt to EBITDA not greater than 3.0 to 1.0, measured quarterly as of the last day of each fiscal quarter. Funded Debt means the sum of all interest bearing debt as of the last day of the applicable fiscal quarter (or, with respect to the Line of Credit, as of fifteen (15) days after the last day of the applicable fiscal quarter). EBITDA has the meaning ascribed to it in the "Fixed Charge Coverage Ratio" covenant above in this Section 5.

(f) By deleting the reference to "by Borrower" in the lead-in sentence in Section 8 of the Loan Agreement.

(g) By deleting Sections 8.01, 8.02, 8.03, 8.04, 8.05, 8.06, 8.07, 8.09, 8.10, and 8.13 of the Loan Agreement in their respective entireties, and by substituting in lieu thereof the following new Sections 8.01, 8.02, 8.03, 8.04, 8.05, 8.07, 8.09, 8.10, and 8.13, respectively:

8.01 Should Borrower fail to make payment of any installment of principal or interest on any of the Note(s) or on any debt under any of the Loan Documents.

8.02. Should any representation or warranty made by Borrower, any affiliate of Borrower (as defined in 11 U.S.C. Section 101(2)), or any guarantor of any Note (said affiliate or guarantor herein called "Obligor") in the Loan Documents prove to be false or misleading in any material respect when made or become false or misleading at any time thereafter.

8.03. Should any report, certificate, financial statement, or other document furnished prior to the execution of or pursuant to the terms of this Agreement or any other Loan Document prove to be false, incomplete or misleading in any material respect when delivered or made.

8.04. Should Borrower or any guarantor default in the payment or performance of any other loan, line of credit, indenture, mortgage instrument, security agreement or other agreement with Bank and all applicable notice and cure periods have expired that may materially and adversely affect Borrower's or such guarantor's property or ability to perform their respective obligations under this Agreement or the other Loan Documents.

8.05. Subject to the provisions in the paragraph entitled "Notice and Right to Cure" at the end of this Section 8, should Borrower (a) breach any covenant, condition, or agreement made under (i) any of the Loan Documents to which it is a party, (ii) any other contract between Borrower and Bank, (iii) any contract between any third party and Borrower made for the benefit of Bank, (b) breach any covenant, condition, or agreement made in connection with any other liability to Bank by any one or more of Borrower or any Obligor, or (c) otherwise fail to comply with any of the provisions of any such Loan Documents, including, without limitation, Schedule DD.

8.06 [Reserved.]

8.07. Should a custodian be appointed for or take possession of any or all of the assets of Borrower or any Obligor; should Borrower or any Obligor either voluntarily or involuntarily become subject to any insolvency proceeding, including becoming a debtor under the United States Bankruptcy Code, any proceeding to dissolve Borrower or any Obligor, any proceeding to have a receiver appointed for any part of the Mortgaged Property or other Collateral of Borrower or any Obligor, or should Borrower or any Obligor make an assignment for the benefit of creditors; should there be an attachment, execution, levy or other judicial seizure of all or any portion of Borrower's or any Obligor's assets, including an action or proceeding to seize any Collateral or any funds on deposit with the Bank, and any such action or seizure described above in this Section 8.07 in connection with any involuntary insolvency proceeding is not discharged within sixty (60) days; or should Borrower or any Obligor admit the inability to pay its debts in the ordinary course of business.

8.09. Upon the termination of existence of, or dissolution of, the Borrower or any Obligor.

8.10. Should any lien or security interest of the Bank in the Collateral terminate, fail for any reason to have the priority agreed to by Bank on the date granted, or become unenforceable, unperfected or invalid for any reason, should the Collateral fail to be insured as required herein, or should the fair market or appraised value of the Mortgaged Property or other Collateral decline below the value anticipated or required in connection with the Loan(s).

8.13. (a) Should Borrower, any Obligor or any officer or director of Borrower or any Obligor, be indicted for a felony offense under state or federal law, including without limitation any violation of any anti-money laundering, bribery, OFAC or bank fraud (in each case except for any felony described in clause (c)), and such officer or director is not replaced by an officer or director selected by Borrower or such Obligor (as applicable) but reasonably acceptable to Bank within ten (10) days of such indictment, (b) should Borrower or any Obligor employ an executive officer, or elect a director, who, to the knowledge of Borrower or such Obligor (as applicable), has been convicted of any such felony offense, and (c) should Borrower, any Obligor, or any officer or director of Borrower or any Obligor, be indicted for or convicted of (i) a felony committed in the conduct of Borrower's or such Obligor's business, or (ii) violating any state or federal criminal law that could lead to forfeiture of any material property of Borrower or such Obligor or any Collateral.

(h) By adding the following new Sections 8.14, 8.15, 8.16, 8.17, 8.18, 8.19, 8.20, 8.21, 8.22, 8.23, 8.24 and 8.25 to the Loan Agreement immediately following Section 8.13:

8.14. Should a single entity or a group of closely related entities acquire greater than fifty percent (50%) of the outstanding common stock of Borrower.

8.15. Should Borrower fail to furnish information and documentation to Bank sufficient to verify the identity of Borrower as required under the USA Patriot Act.

8.16. Should Bank determine that Borrower or any Obligor has suffered a material adverse change in its financial condition or business operations.

8.17. Should Borrower suffer any material loss, theft, damage or destruction to the Mortgaged Property which is not covered by insurance.

8.18. The sale (including sale by land contract upon delivery of possession), transfer or encumbrance of all or any part of the Mortgaged Property or any interest therein.

8.19. Should any change occur in any zoning ordinance or regulation, or should any other public restriction be enacted, adopted or implemented, that limits or defines the uses which may be made of the Mortgaged Property such that the present or intended use of the Mortgaged Property, as specified in any of the related documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed.

8.20. Failure of Borrower to make any payment for taxes or insurance when due.

8.21. Should foreclosure or forfeiture proceedings be commenced, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any of the Mortgaged Property or other Collateral (including any garnishment of any of Borrower's accounts, including deposit accounts), with Bank and such proceeding is not terminated within thirty (30) days.

8.22. Refusal by Borrower to permit Bank to inspect, examine or verify the books and records in accordance with the Exam provisions set forth in Section DD.06(b) of Schedule DD.

8.23. Failure (a) to execute a Lockbox Agreement and notify Account Debtors to remit payments to the Lockbox, if and when required by Section DD.05(a) of Schedule DD or (b) deposit checks or other remittances received in payments of Accounts into the Operating Account, or Medicare Receivables Account or Collateral Reserve Account at Bank, if and when required by Bank.

8.24. If an Overadvance shall exist, and Borrower fails upon demand immediately to prepay the Line of Credit by an amount sufficient to bring Borrower in compliance with Schedule DD.

8.25. Should any guarantor terminate any guaranty agreement given in connection with any Note.

(i) By adding the following new paragraph to the end of Section 8 of the Loan Agreement immediately following Section 8.25 thereof:

### **Notice and Right to Cure.**

(a) Notwithstanding any provision contained in this Agreement, the Note(s) or any other Loan Document to the contrary but subject to the provisions of clauses (b) and (c) below, during the existence of any Event of Default Bank's right to exercise its remedies as a result of such Event of Default shall be immediate and without notice, including, without limitation, with respect to (i) any Event of Default under Section 8.05 that arises out of a breach of any of Sections 3.01 (other than 3.01(c)), 3.03, 3.04, 3.05, 3.07, 3.08 (other than with respect to the Quarterly Financial Statements, Annual Financial Statements, Loan Base Report and Officer Compliance Certificate subsections contained therein), 3.09, 3.11, and 3.12, the Financial Covenants of Section 5, the Negative Covenants of Section 6, (ii) any Event of Default that arises out of a breach of any covenant set forth in Section DD.05, DD.06, DD.09(b) or DD.09(i) of Schedule DD, or in Section 4.4, 4.7, 4.9 or 6 of the Security Agreement, and (iii) any other Event of Default under Section 8.

(b) Without any obligation of Bank to provide notice thereof, any breach of Section 3.01(c) or 3.08 (solely with respect to the Loan Base Report, Quarterly Financial Statements, Annual Financial Statements, and Officer Compliance Certificate subsections thereof) shall not result in an Event of Default until the applicable date set forth below occurs and as of such date Borrower has failed to cure such breach to the satisfaction of Bank: (i) with respect to a breach of Section 3.01(c), the thirtieth (30<sup>th</sup>) day following the occurrence of such breach, (ii) with respect to a breach of the Loan Base Report subsection of Section 3.08, the fifth (5<sup>th</sup>) day following the occurrence of such breach, and (iii) with respect to a breach for failure to timely deliver the Quarterly Financial Statements, Annual Financial Statements, or Officer Compliance Certificate required to be delivered pursuant to Section 3.08, the earlier of (A) the thirtieth (30<sup>th</sup>) day following the occurrence of such breach, and (B) the date on which the Borrower files the financial statements corresponding to such breach with the Securities and Exchange Commission. During any cure period with respect to a breach described in this clause (b) (and thereafter if, and only if, such breach is cured to the satisfaction of Bank prior to the expiration of such cure period), such breach shall not constitute an Event of Default, but Borrower shall not be permitted to take any action that it would not be permitted to take during the existence of an Event of Default.

(c) With respect to any Event of Default that would arise under Section 8.05 due to a breach of any section of this Agreement or any other Loan Document (other than any section described in clause (a) or (b) of this paragraph), such breach shall not result in an Event of Default until the thirtieth (30<sup>th</sup>) day following the earlier of the date on which Borrower (i) has knowledge thereof or (ii) receives notice thereof from Bank (provided that Bank shall have no obligation to provide notice thereof); provided, however, that the opportunity to cure pursuant to this clause (c) shall not apply if (A) the breach or failure to perform is not capable of being cured within such period or is a willful breach by Borrower, or (B) an Event of Default (or cure pursuant to this clause (c)) has occurred within the preceding twelve (12) months with respect to a breach of the same section of this Agreement or other Loan Document. During any cure period with respect to a breach described in this clause (c) (and thereafter if, and only if, such breach is cured to the satisfaction of Bank prior to the expiration of such cure period), such breach shall not constitute an Event of Default, but Borrower shall not be permitted to take any action that it would not be permitted to take during the existence of an Event of Default and Bank shall have no obligation to make any advance or other extension of credit to Borrower.

(j) By adding the following sentence at the end of Section 9 of the Loan Agreement immediately following Section 9.05:

For the avoidance of doubt, in no event shall any notice be required or given for any Event of Default arising from: any representation, financial statement, report, certificate or other document furnished prior or pursuant to this Agreement or any other Loan Document which proves to be false or misleading in any material respect when made; should Borrower voluntarily become a debtor under the Bankruptcy Code, become subject to any insolvency proceeding, make an assignment for the benefit of creditors or become subject to any attachment, execution, or judicial seizure of its assets (including any funds on deposit with Bank); any indictment of Borrower or any manager, executive officer or general partner thereof for any felony offense; any failure to repay any Note at maturity; any commencement of the process of liquidation or dissolution; any proceeding commenced against Borrower seeking the forfeiture of all or any part of the Collateral securing any Note or other assets as a result of any criminal activity; or the sale, conveyance, transfer or encumbrance of any real property subject to a Deed of Trust granted to Bank or a bulk sale transfer of any personal collateral without the prior consent of Bank.

(k) By adding the following new definitions of “**Approved Equipment**”, “**Assignment of Leases and Rents**”, “**CapEx Loan Conditions**”, “**Deed of Trust**”, “**Equipment Purchase Price**”, “**First Amendment Date**”, “**Mortgaged Property**” and “**Swap Obligation**” to Section 10.01 of the Loan Agreement in proper alphabetical order:

“**Approved Equipment**” shall mean, without the prior consent or approval of Bank, new or used equipment which (a) Borrower has purchased and is using or will use in the ordinary course of Borrower's business; (b) has been delivered to, and accepted by, Borrower and, if applicable, has been installed at premises which Borrower owns or leases; (c) is subject to no lien other than Bank's first priority lien (unless the holder of any other lien agrees in writing with Bank, before Bank funds the CapEx Loan Advance for such Equipment, to disclaim any interest in such Equipment); (d) does not and, after delivery to and installation at Borrower's premises, will not constitute a fixture under applicable law, unless each landlord and mortgagee of such premises has executed in Bank's favor a landlord or mortgagee waiver in form and substance acceptable to Bank; and (e) does not and, after delivery to and, if applicable, installation at Borrower's premises, will not constitute an accession to other Equipment that is subject to any lien other than Bank's lien (unless the holder of any other lien agrees in writing with Bank, before Bank funds the CapEx Loan Advance for such Equipment, to disclaim any interest in the Equipment which will constitute such accession).

**“Assignment of Leases and Rents”** shall mean the Assignment of Leases and Rents by Borrower in favor of Bank, in which Borrower shall assign to Bank all existing and thereafter arising leases on the Mortgaged Property and the rents and profits therefrom.

**“CapEx Loan Conditions”** means, with respect to each CapEx Loan Advance requested by Borrower pursuant hereto, the following conditions:

(a) Borrower shall have requested such CapEx Loan Advance in a writing received by Bank in which Borrower provides (i) in detail, a list, as applicable, of the Approved Equipment purchased or being purchased by Borrower with respect to such CapEx Loan Advance (and as to which no prior CapEx Loan Advance has been requested or made), (ii) the Equipment Purchase Price (as defined below) of such Approved Equipment, (iii) the identity, address, and telephone number of the seller of such Approved Equipment, and (iv) the delivery date or the anticipated delivery date for such Approved Equipment;

(b) Bank shall have received (i) a copy of the invoice or purchase order relating to such Approved Equipment, (ii) evidence that such Approved Equipment has been shipped to, and accepted and installed by, Borrower, and (iii) such other documentation with respect thereto as Bank may request in its sole and absolute discretion;

(c) the proceeds of each CapEx Loan Advance shall not exceed 80% of the Equipment Purchase Price of the Approved Equipment purchased between October 1, 2017 and March 1, 2019, for which such CapEx Loan Advance is requested, and the principal amount of the CapEx Loan Advance requested, together with the principal amount of all CapEx Loan Advances made prior to or contemporaneously with such requested CapEx Loan Advance, shall not exceed \$26,000,000.00 (i.e., the maximum aggregate principal amount of the CapEx Loan);

(d) at the time of making such CapEx Loan Advance, there shall exist no Event of Default or an event which, with the passage of time or giving of notice, would become an Event of Default, nor shall any Event of Default result therefrom; and

(e) Bank shall have received an origination fee equal to 0.10% of the principal amount of such CapEx Loan Advance.

**“Deed of Trust”** shall mean the Texas Deed of Trust and Security Agreement by Borrower in favor of Bank, in which Borrower shall grant to Bank a first priority lien on the Mortgaged Property.

**“Equipment Purchase Price”** shall mean, with respect to any item of Approved Equipment, the invoice price paid for such item of Approved Equipment, net of any applicable sales tax, shipping, delivery, inspection, installation, transportation, freight, and any other so-called “soft” costs.

**“First Amendment Date”** shall mean March 30, 2018.

**“Mortgaged Property”** shall mean the real property (including fixtures and improvements thereon) of Borrower described on Exhibit A to the Deed of Trust and more commonly referred to as 13139 Jess Pirtle Blvd, Sugar Land, Texas 77478.

**“Swap Obligation”** shall mean, with respect to Borrower, any obligation to pay or perform under any agreement, contract or transaction that constitutes a Swap Agreement (including any Hedge Agreement) within the meaning of section 1a(47) of the Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.).

(l) By deleting the reference to “\$50,000,000” set forth in the definition of **“Availability”** contained in Section 10.01 of the Loan Agreement, and by substituting in lieu thereof a reference to “\$60,000,000.”

(m) By deleting the definitions of **“Collateral”**, **“Loan Documents”** and **“Specified Transaction”** contained in Section 10.01 of the Loan Agreement, and by substituting in lieu the following new definitions, respectively:

**“Collateral”** shall mean all property and assets granted under the Loan Documents as collateral security for the Loan(s), whether real or personal property, whether granted directly or indirectly, whether granted now or in the future, and whether granted in the form of a security interest, mortgage, security deed, deed of trust, assignment, pledge, crop pledge, chattel mortgage, chattel trust, factor’s lien, equipment trust, conditional sale, trust receipt, lien, charge, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract, or otherwise.

**“Loan Documents”** shall mean this Agreement including any Schedule attached hereto, the Note(s), the Deed of Trust, the Security Agreement(s), the Assignment of Leases and Rents, all UCC Financing Statements, the Trademark Security Agreement, the Patent Security Agreement, each Hedge Agreement, if any, and all other documents, certificates, and instruments executed in connection therewith, and all renewals, extensions, modifications, substitutions, and restatements thereof and therefore.

**“Specified Transaction”** shall mean (a) a purchase of part or all of the assets of a business or any Person, (b) a purchase, redemption, retirement or other acquisition of any of Borrower’s capital stock or other ownership interests, (c) an unsubordinated loan to directors, officers, partners, members, shareholders, subsidiaries or Affiliates, (d) a sale, lease or other disposition of asset or properties (other than assets or properties that have been replaced by similar assets of at least the same or better value and for which the purchase of such replacement asset or property constitutes a Specified Transaction under clause (a) above), or (e) an Affiliate Transaction.

(n) By adding the following new Section 10.29 of the Loan Agreement immediately following Section 10.28:

**10.29. Co-Terminous.** Bank has made various Loans to Borrower, as described in this Agreement and evidenced by the Notes. Notwithstanding the payment schedules set forth in the Notes, Borrower agrees that if the Line of Credit, Term Loan or CapEx Loan is terminated because of Bank’s demand for repayment of the Line of Credit, Term Loan or CapEx Loan because of Borrower’s Event of Default under the terms and provisions of the Line of Credit, Term Loan or CapEx Loan, then the entire principal balance of the Line of Credit, Term Loan and CapEx Loan together with accrued interest and late fees, if any, shall be due and payable in full without demand upon the first effective date of the termination of the Line of Credit, Term Loan or CapEx Loan. In addition, Borrower agrees that if the Line of Credit is refinanced, or Borrower notifies Bank that it is to be refinanced, by a person or entity other than the Bank, Bank may in its discretion require the entire principal balance of the Term Loan and the CapEx Loan together with accrued interest and late fees, if any, to be due and payable in full upon demand (and all such amounts shall be due and payable in full upon such demand).

(o) By deleting clause (i) of Section DD.01 of Schedule DD to the Loan Agreement, and by substituting in lieu thereof the following new clause (i):

(i) Collateral. Collateral shall mean the assets and property described in the Security Agreement and/or any other Loan Document, including, without limitation, Borrower's Accounts, Inventory, Equipment and Other Collateral.

(p) By deleting clause (t) of Section DD.01 of Schedule DD to the Loan Agreement, and by substituting in lieu thereof the following new clause (t):

(t) Exam. Those inspections, testings and examinations on the premises of Borrower or wherever books, records or Collateral may from time to time be located, including, but not limited to, the inspection of Inventory, the inspection of Equipment, and standard testing of such books and records by Bank's representatives, at any time during normal business hours, and with or without prior notice to Borrower from Bank, as provided in Section DD.06(b).

(q) By adding the following new clause (xx) to Section DD.01 of Schedule DD to the Loan Agreement immediately following clause (ww):

(xx) Equipment. Equipment shall have the meaning given to it under the UCC.

(r) By deleting clause (k) of Section DD.03 of Schedule DD to the Loan Agreement, and by substituting in lieu thereof the following new clause (k):

(k) That portion of Accounts due from an Account Debtor which is in excess of a concentration limit of fifteen percent (15%) (or, in the case of Accounts due from (i) SYNEX Corporation and its subsidiary, Hyve Solutions Corporation, collectively, fifty percent (50%), (ii) each of Amazon Corporate LLC, Facebook, Inc., Alphabet Inc., and their respective affiliates, fifty percent (50%), (iii) each of World Wide Technology, Inc. and Microsoft Corporation, and their respective affiliates, forty percent (40%), and (iv) Syncreon Logistics USA LLC, thirty percent (30%) of Borrower's aggregate dollar amount of all outstanding Accounts.

(s) By deleting the sentence beginning "Borrower shall forward to Bank" set forth in clause (a) of Section DD.06 of Schedule DD to the Loan Agreement, and by substituting in lieu thereof the following new sentence:

Borrower shall forward to Bank any of these reports at such other times as Bank may require them, upon notice to Borrower, and/or any other reports deemed necessary by Bank in its discretion to monitor the Collateral (including, without limitation, such Equipment reports as Bank may request in its sole discretion).

(t) By deleting the reference to “Accounts, Inventory, and Other Collateral” set forth in clause (b) of Section DD.06 of Schedule DD to the Loan Agreement, and by substituting in lieu thereof a reference to “Accounts, Inventory, Equipment and Other Collateral.”

(u) By deleting clause (c) of Section DD.07 of Schedule DD to the Loan Agreement, and by substituting in lieu thereof the following new clause (c):

(c) Borrower shall pay to Bank the actual cost of any appraisal of Inventory, Equipment and/or Other Collateral performed by an independent appraiser as required by Bank together with any fee assessed by Bank for the review thereof, but not to exceed \$1,150.00 per day in cost for each examiner.

(v) By deleting Section DD.08 of Schedule DD to the Loan Agreement in its entirety, and by substituting in lieu thereof the following new Section DD.08:

DD.08. **Events of Default.** The occurrence of any Event of Default as defined in the Loan Agreement shall constitute an Event of Default hereunder.

(w) By deleting Schedule EE to the Loan Agreement in its entirety, and by substituting in lieu thereof the Schedule EE attached hereto.

**3. Amendments to Security Agreement.** The Security Agreement is hereby amended as follows:

(a) By deleting all language that immediately follows the phrase “This Security Agreement is entered into in connection with (check applicable items):” and precedes the phrase “Secured Party and Debtor agree as follows” in the introductory section on page 1 of the Security Agreement and by substituting in lieu thereof the following:

- (i) a Loan Agreement (as at any time amended, modified, restated, or supplemented, the “Loan Agreement”) dated on or before the date of this Security Agreement under which the Secured Party has agreed to make a loan(s) and/or establish a line(s) of credit (the “Loan”);
- (ii) (A) a Promissory Note dated September 28, 2017 (including, without limitation, all addenda, extensions, renewals, modifications and substitutions thereof, the “Line of Credit Note”), made by Debtor (the “Borrower”) in favor of Secured Party, in the principal amount of \$60,000,000;
- (B) a Promissory Note dated March 30, 2018, made by Debtor in favor of Secured Party in the maximum principal amount of \$21,500,000.00 (including, without limitation, all addenda, extensions, renewals, modifications and substitutions thereof, “Term Note”);
- (C) a Promissory Note dated March 30, 2018, made by Debtor in favor of Secured Party in the maximum principal amount of \$26,000,000.00 (including, without limitation, all addenda, extensions, renewals, modifications and substitutions thereof, “CapEx Note”; the Line of Credit Note, Term Note and CapEx Note are collectively referred to herein as the “Note”);

- (iii) a guaranty agreement or agreements (whether one or more, the “Guaranty”) executed by the guarantors named therein (whether one or more, the “Guarantors”) dated on or about the same date as this Security Agreement;
- (iv) a control agreement covering the Debtor’s or Borrower’s Deposit Account(s), Investment Property, Letter-of-Credit Rights, or Electronic Chattel Paper dated on or about the same date as this Security Agreement executed by the Debtor and the Borrower;
- (v) the sale by Debtor and purchase by Secured Party of Accounts, Chattel Paper, Payment Intangibles and/or Promissory Notes; and/or
- (vi) all obligations of Debtor under a BB&T Bankcard Agreement to repay indebtedness incurred under Business Visa Credit Cards issued to authorized officers and employees of Debtor.

(b) By deleting clauses (iii) and (viii) of Section 1.1 of the Security Agreement, and by substituting in lieu thereof the following new clauses (iii-a) and (viii):

- (iii) Equipment, including all Accessions thereto, and all manufacturers’ warranties, parts and tools therefore.
- (viii) Goods, including all Fixtures and timber to be cut, located or situated on the real property specifically described as follows: See attached Annex A.

(c) By deleting clause (iii) of Section 1.2 of the Security Agreement, and by substituting in lieu thereof the following new clause (iii):

(iii) all of Debtor’s or Borrower’s present and future indebtedness to Secured Party howsoever evidenced, including without limitation all promissory notes, whether now existing or hereafter arising, executed by Debtor or Borrower, reimbursement of drafts or drawings paid by Secured Party on any Commercial or Standby Letter of Credit issued on the account of the Debtor or Borrower; all indebtedness and obligations of Debtor or Borrower to Secured Party (or an affiliate of Secured Party) under any interest rate swap transactions, interest rate cap and/or floor transactions, interest rate collar transactions, swap agreements (as defined in 11 U.S.C. § 101) or other similar transactions or agreements, including without limitation any ISDA Master Agreement executed by Debtor or Borrower and all Schedules and Confirmations entered into in connection therewith, including, without limitation, any Hedge Agreement (as such term is defined in the Loan Agreement); and all amounts advanced to Debtor or Borrower by Secured Party in connection with the issuance of Business Credit Cards to the officers and designated employees of the Debtor or Borrower;

(d) By deleting the paragraph titled “Application of Insurance Proceeds” set forth in Section 4.7 of the Security Agreement, and by substituting in lieu thereof the following:

**Application of Insurance Proceeds.** Debtor shall promptly notify Secured Party of any loss or damage to the Collateral, whether or not such casualty or loss is covered by insurance. Secured Party may make proof of loss if Debtor fails to do so within thirty (30) days of the casualty. In the event that Debtor should receive any such insurance proceeds, Debtor agrees to immediately turn over and to pay such proceeds directly to Secured Party. If requested by Debtor in writing after Secured Party's receipt of any insurance proceeds relating to any lost or damaged Collateral, Debtor may use such proceeds to repair or replace the Collateral (and until so used, the proceeds shall be held by Secured Party as part of the Collateral) as long as (i) no Event of Default exists; (ii) such repair or replacement is promptly undertaken and concluded within sixty (60) days of any such loss or damage, in accordance with plans satisfactory to Secured Party; (iii) replacement Collateral is of comparable quality and utility to the lost or destroyed Collateral; (iv) the repaired or replaced Collateral is free of liens, other than Secured Party's first priority lien and as otherwise permitted under the Loan Documents; and (v) Debtor complies with disbursement procedures for such repair or replacement as Secured Party may reasonably require. If an Event of Default has occurred and is then continuing, Secured Party shall retain a sufficient amount of the proceeds to pay all of the Obligations as they would otherwise have been paid, and shall pay the balance to Debtor. Any proceeds which have not been disbursed within sixty (60) days after their receipt and which Debtor has not committed to the repair or replacement of the Collateral shall be used to prepay the Obligations.

(e) By deleting Article VII of the Security Agreement in its entirety, and by substituting in lieu thereof the following new Article VII:

VII. **EVENT OF DEFAULT.** The occurrence of any Event of Default as defined in the Loan Agreement shall constitute an Event of Default under this Security Agreement.

(f) By adding the words “, in accordance with applicable law,” after the word “Seek” in clause (v) of Section 9.2 of the Security Agreement.

(g) By adding the Annex A attached hereto as a new Annex A to the Security Agreement.

**4. Indemnification.** Borrower hereby agrees to indemnify and hold Bank, its affiliates, their successors and assigns and their respective directors, officers, employees and shareholders harmless from and against, any loss, damage, lawsuit, proceeding, judgment, cost, penalty, expense (including all reasonable in-house and outside attorneys' fees, whether or not suit is brought, accountants' fees and/or consultants' fees) or liability whatsoever arising from or otherwise relating to any encroachment by any buildings or improvements of Borrower on the Mortgaged Property into any area subject to an easement, including, without limitation, Access Easement (C.F. No. 2004049251) as described in the survey delivered pursuant to Section 10(i) below.

**5. Ratification and Reaffirmation.** Borrower hereby ratifies and reaffirms the indebtedness under the Loan Agreement and the other Loan Documents, each of the Loan Documents, and all of Borrower's covenants, duties, indebtedness and liabilities under the Loan Documents.

**6. Acknowledgments and Stipulations.** Borrower acknowledges and stipulates that each of the Loan Documents executed by Borrower creates legal, valid and binding obligations of Borrower that are enforceable against Borrower in accordance with the terms thereof; all of the indebtedness under the Loan Agreement, the Note and the other Loan Documents is owing and payable without defense, offset or counterclaim (and to the extent there exists any such defense, offset or counterclaim on the date hereof, the same is hereby knowingly and voluntarily waived by Borrower); the security interests and liens granted by Borrower in favor of Bank are duly perfected, first priority security interests and liens; and at the beginning of business on March 29, 2018, the unpaid principal amount of the Line of Credit totaled \$38,370,223.74

**7. Representations and Warranties.** Borrower represents and warrants to Bank, to induce Bank to enter into this Amendment, that no Event of Default or event which, with the passage of time or giving of notice, would become an Event of Default exists on the date hereof; the execution, delivery and performance of this Amendment have been duly authorized by all requisite corporate action on the part of Borrower and this Amendment has been duly executed and delivered by Borrower; and all of the representations and warranties made by Borrower in the Loan Agreement are true and correct on and as of the date hereof.

**8. Reference to Loan Agreement.** Upon the effectiveness of this Amendment, each reference in the Loan Agreement to “this Agreement”, “hereunder”, or words of like import shall mean and be a reference to the Loan Agreement, as amended by this Amendment. Upon the effectiveness of this Amendment, each reference in the Security Agreement to “this Security Agreement”, “hereunder”, or words of like import shall mean and be a reference to the Security Agreement, as amended by this Amendment.

**9. Breach of Amendment.** This Amendment shall be part of the Loan Agreement and the Security Agreement, and a breach of any representation, warranty or covenant herein shall constitute an Event of Default.

**10. Conditions Precedent.** The effectiveness of the amendments contained in Sections 2 and 3 hereof is subject to Bank’s receipt of each of the following, on or before the date of this Amendment, in form and substance satisfactory to Bank, together with all originals of the same to the extent requested by Bank in its sole discretion:

- (a) A counterpart of this Amendment, duly executed by Borrower;
- (b) A Note Modification Agreement, duly executed by each Borrower, and substantially in the form attached hereto as Exhibit A, with respect to the Line Note;
- (c) Promissory notes, duly executed by each Borrower, and substantially in the forms attached hereto as Exhibits B and C, with respect to the Term Loan and the CapEx Loan, respectively;
- (d) Resolutions of Borrower authorizing Borrower to enter into this Amendment and the other documents executed in connection herewith, certified by an authorized officer of Borrower, and substantially in the form attached hereto as Exhibit D;
- (e) A Texas Deed of Trust and Security Agreement in favor of Bank, duly executed by Borrower;
- (f) An Assignment of Leases and Rents in favor of Bank, duly executed by Borrower;
- (g) A binding title commitment or pro forma mortgagee policy from a title insurance company acceptable to Bank listing all liens, encumbrances and easements covering the Mortgaged Property and providing coverage for the aggregate principal amount of the Notes and insuring the appropriate lien priority of the Deed of Trust and which shall not contain any title exceptions or policy exclusions not approved by Bank and Bank’s counsel;

(h) A "Phase I" environmental audit covering the Mortgaged Property from an independent environmental engineering firm satisfactory to Bank which reflects that no hazardous waste, toxic substances, or other hazardous materials have contaminated the Mortgaged Property or, if the Mortgaged Property has been so contaminated, that it has been satisfactorily remediated or contained in accordance with all Environmental Laws. Bank shall be fully authorized to discuss all aspects of the audit with the engineering firm;

(i) A current plat of survey of the Mortgaged Property, prepared and certified by a registered land surveyor or civil engineer;

(j) A determination by a vendor acceptable to Bank of whether the Mortgaged Property is located in a special flood, mud slide, or erosion hazard area (together with such acknowledgments thereof as Bank may require) and, if the Mortgaged Property is located in such an area, flood insurance acceptable to Bank in its sole discretion, naming Bank as mortgagee or loss payee, and such other flood hazard diligence and documentation as Bank may require in its sole discretion;

(k) Updated lien search results with respect to Borrower and its assets;

(l) Updated copies of policies or certificates of insurance for the insurance policies of Borrower for the replacement cost of the insurable items of Collateral, naming Bank as mortgagee and lender's loss payee;

(m) An opinion of counsel for Borrower satisfactory to Bank and Bank's counsel;

(n) Payment of the origination fees described in Section 11 below;

(o) One (1) copy of an appraisal ordered by Bank of the estimated market value of the Mortgaged Property (which shall be no less than \$40,000,000), which appraisal must be addressed to Bank and must conform to the Uniform Standards of Professional Appraisal practice ("USPAP") adopted by the Appraisal Standards Board of the Appraisal Foundation. Any deviation from the USPAP must be explained in the appraisal. The appraiser must be licensed and/or certified if required by applicable Federal Deposit Insurance Corporation regulations or state laws;

(p) All Hedge Agreements and other swap documentation as Bank may request in its sole discretion; and

(q) All other approvals, opinions or documents as Bank may reasonably request.

**11. Origination Fees; Expenses of Bank.** In consideration of Bank's willingness to enter into this Amendment as set forth herein, Borrower agrees to pay to Bank an origination fee in the amount of \$5,055.72 with respect to the CapEx Loan in immediately available funds on the date hereof. Additionally, Borrower agrees to pay, **on demand**, all costs and expenses incurred by Bank in connection with the preparation, negotiation and execution of this Amendment and any other Loan Documents executed pursuant hereto and any and all amendments, modifications, and supplements thereto, including, without limitation, the costs and fees of Bank's legal counsel and any taxes, filing fees and other expenses associated with or incurred in connection with the execution, delivery or filing of any instrument or agreement referred to herein or contemplated hereby; provided, that the parties hereto acknowledge and agree that Bank shall be responsible for the cost of the appraisal referenced in Section 9(o) hereof of the Mortgaged Property in an amount up to \$6,800.

**12. Release of Claims.** To induce Bank to enter into this Amendment, Borrower hereby RELEASES, ACQUITS AND FOREVER DISCHARGES Bank, and all officers, directors, agents, employees, successors and assigns of Bank, from any and all liabilities, claims, demands, actions or causes of action of any kind or nature (if there be any), whether absolute or contingent, disputed or undisputed, at law or in equity, or known or unknown, that Borrower now has or ever had against Bank arising under or in connection with any of the Loan Documents or otherwise. Borrower represents and warrants to Bank that Borrower has not transferred or assigned to any Person any claim that Borrower ever had or claimed to have against Bank.

**13. Governing Law.** This Amendment shall be governed by and construed in accordance with the internal laws of the State of Texas.

**14. No Novation, etc.** Except as otherwise expressly provided in this Amendment, nothing herein shall be deemed to amend or modify any provision of the Loan Agreement, the Security Agreement or any of the other Loan Documents, each of which shall remain in full force and effect. This Amendment is not intended to be, nor shall it be construed to create, a novation or accord and satisfaction, and the Loan Agreement and the Security Agreement as herein modified shall continue in full force and effect.

**15. Successors and Assigns.** This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

**16. Further Assurances.** Borrower agrees to take such further actions as Bank shall reasonably request from time to time in connection herewith to evidence or give effect to the amendments set forth herein or any of the transactions contemplated hereby.

**17. Miscellaneous.** This Amendment may be executed in any number of counterparts and by different parties to this Amendment on separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. Any manually executed signature page to this Amendment delivered by a party by facsimile or other electronic transmission shall be deemed to be an original signature hereto. Section titles and references used in this Amendment shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreements among the parties hereto. This Amendment expresses the entire understanding of the parties with respect to the subject matter hereof and may not be amended except in a writing signed by the parties.

**18. Waiver of Jury Trial.** To the fullest extent permitted by applicable law, each party hereby waives the right to trial by jury in any action, suit, counterclaim or proceeding arising out of or related to this Amendment.

[Remainder of page intentionally left blank;  
signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective duly authorized officers on the date first written above.

WITNESS:

/s/ Jerry K. Hu  
Jerry K. Hu

/s/ Jerry K. Hu  
Jerry K. Hu

WITNESS:

[signature illegible]

**APPLIED OPTOELECTRONICS, INC.**  
("Borrower")

By: /s/ Stefan Murry  
**Stefan Murry**, Chief Financial Officer

By: /s/ David Kuo  
**David Kuo**, Vice President, General Counsel and Secretary

**BRANCH BANKING AND TRUST COMPANY**  
("Bank")

By: /s/ Brannon E. Fitch  
**Brannon E. Fitch**, Senior Vice President

**SCHEDULE "EE" TO BB&T LOAN AGREEMENT**

**OFFICER COMPLIANCE CERTIFICATE**

This certificate (the "Certificate") is delivered pursuant to Section 3.08 of the Loan Agreement dated September 28, 2017, between **APPLIED OPTOELECTRONICS, INC.** (the "Borrower") and **BRANCH BANKING AND TRUST COMPANY** (the "Bank"), as the same may be amended or supplemented from time to time, being herein referred to as the Loan Agreement. All capitalized terms used in this Certificate which are defined in the Loan Agreement are used in this Certificate with the same meanings given such terms in the Loan Agreement.

I hereby certify, to the best of my knowledge and belief and in my representative capacity on behalf of the Borrower, to the Bank as follows:

1. I am the duly elected or appointed and acting \_\_\_\_\_ (Title) of the Borrower.
2. I have reviewed the financial statements of the Borrower as of and for the period ending \_\_\_\_\_ attached hereto as Exhibit I, which were prepared in accordance with GAAP, consistently applied, and are true and correct in all material aspects and fairly present the financial position and results and operations of the Borrower.
3. The Representations and Warranties set forth in Section 2 of the Loan Agreement are true and correct as of the date hereof.
4. I further certify that the Borrower is in compliance (unless otherwise specified) with all covenants set forth in Sections 3, 5 and 6 of the Loan Agreement and any Schedules thereto, and specifically the covenants listed below.

| Required by Loan Agreement          | Actual       | In Compliance?<br>Yes/No                                 |
|-------------------------------------|--------------|--|
| Minimum Fixed Charge Coverage Ratio | 1.50 To 1.00 | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Maximum Funded Debt to EBITDA Ratio | 3.00 To 1.00 | <input type="checkbox"/> Yes <input type="checkbox"/> No |

5. I further certify that during the fiscal quarter ending \_\_\_\_\_, 20\_\_, (a) the Borrower consummated no Specified Transactions other than Permitted Specified Transactions, and (b) the aggregate amounts of Specified Transactions consummated by Borrower are as follows.

| Type of Specified Transaction   | Aggregate Amount Consummated During Fiscal Quarter |
|---|--|
| Purchases of part or all of the assets of a business or any Person  | \$ _____   |
| Purchases, redemptions, retirements or other acquisitions of any of Borrower's capital stock or other ownership interests                   | \$ _____   |
| Unsubordinated loans to directors, officers, partners, members, shareholders, subsidiaries or Affiliates                                    | \$ _____   |
| Sales, leases and other dispositions of asset or properties of any type described in clause (d) of the definition of Specified Transactions | \$ _____   |
| Affiliate Transactions  | \$ _____   |
| <b>Total:</b>   | <b>\$ _____</b>                                    |

6. As of the date hereof, no default or Event of Default under Section 8 of the Loan Agreement and any Schedules thereto has occurred (except as specified on Exhibit II, attached hereto, which Exhibit II also sets forth any corrective action taken or proposed to be taken with respect to such default or Event of Default).

In Witness Whereof, I have caused this Certificate to be executed and delivered to the Bank this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Witness: \_\_\_\_\_  
Signature of Officer, Manager, General Partner

Print Name: \_\_\_\_\_ Print Name

\_\_\_\_\_ Title

**Attach Exhibit I and II, if applicable.**

**ANNEX A**

(See attached.)

**TRACT I:**

6.312 acre of land, being all of Commercial Reserve "A-1", of **AOI 13139 JESS PIRTLE**, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded at Plat No. 20140271 of the Plat Records of Fort Bend County, Texas.

**TRACT II:**

Commercial Reserve "B-3" of **PARK WEST SECOND REPLAT OF RESERVE "B"**, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Slide No. 2339/A of the Plat Records of Fort Bend County, Texas.

**EXHIBIT A**

Note Modification Agreement

(See attached.)

MAKER: Applied Optoelectronics, Inc.

9700029240

**BB&T**

ADDRESS: 1319 Jess Pirtle Blvd  
Sugar Land, Texas  
77478

Account Number  
00001  
Note Number

**NOTE MODIFICATION AGREEMENT**

\$60,000,000.00  
Modified Principal Amount

\$50,000,000.00  
Original Principal Amount

September 28, 2017  
Original Date

March 30, 2018  
Modification Date

This Note Modification Agreement (hereinafter referred to as "Agreement") is made and entered into as of this 30th day of March, 2018 by **APPLIED OPTOELECTRONICS, INC.**, as maker(s) and co-maker(s), if any, of the Promissory Note as defined below (whether one or more, hereinafter referred to jointly and severally as "Borrower"), in favor of **BRANCH BANKING AND TRUST COMPANY**, a North Carolina banking corporation (including its successors and assigns, hereinafter referred to as "Bank").

Borrower previously executed a Promissory Note payable to Bank as more particularly identified by the description of the original amount and date set forth above (including all previous renewals, extensions and modifications thereof, collectively the "Promissory Note"). Borrower and Bank hereby agree that the Promissory Note shall be modified only to the limited extent as is hereinafter set forth; that all other terms, conditions, and covenants of such Promissory Note shall remain in full force and effect; and that this Agreement shall constitute a renewal, extension and modification of the Promissory Note and not a novation.

NOW, THEREFORE, in mutual consideration of the premises, the sum of One Dollar (\$1.00) and other good and valuable consideration, each to the other parties paid, the parties hereto agree that the Promissory Note is hereby amended as follows (checked items contain applicable modifications):

- Borrower shall pay a prepayment fee as set forth in the Prepayment Fee Addendum attached hereto.
- This Agreement hereby permanently reduces the principal amount of the loan to Borrower to the Modified Principal Amount set forth above.

**INTEREST RATE, PRINCIPAL AND INTEREST PAYMENT TERM MODIFICATIONS**

**Interest shall accrue from the date hereof on the unpaid balance outstanding from time to time at the:**

- Fixed rate of \_\_\_\_% per annum.
- Variable rate of the Bank's Prime Rate plus \_\_\_\_% per annum to be adjusted \_\_\_\_ as the Bank's Prime Rate changes.
- As of the Modification Date, any fixed, floating or average maximum rate and fixed minimum rate in effect by virtue of the Promissory Note(s) are hereby deleted. If checked here , the interest rate will not exceed a(n)  fixed average maximum rate of \_\_\_\_% or a  floating maximum rate of the greater of \_\_\_\_% or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of \_\_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Promissory Note is repaid in full by Borrower  annually beginning on \_\_\_\_.
- The Adjusted LIBOR Rate as more specifically described in the Addendum to Note attached hereto and incorporated herein.

**Principal and interest are payable as follows:**

- Principal (plus any accrued interest not otherwise scheduled herein) is due in full at maturity on September 28, 2020.
- Payable in consecutive \_\_\_\_ installments of  Principal  Principal and Interest commencing on \_\_\_\_ and continued on the same day of each calendar period thereafter, in \_\_\_\_ equal payments of \$\_\_\_\_, with one final payment of all remaining principal and accrued interest due on \_\_\_\_.
- Accrued interest is payable monthly commencing on April 5, 2018, and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on September 28, 2020.
- Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder \_\_\_\_\_ [monthly, quarterly, annually] on and continuing on \_\_\_\_ the same day of each calendar period thereafter, in order to maintain an amortization period of no more than \_\_\_\_ months from the date of this Agreement. Borrower understands the payment may increase if interest rates increase.
- This Agreement evidences a revolving line of credit and advances under this Agreement, as well as directions for payment from Borrower's accounts, may be requested orally or in writing by Borrower. Bank may, but need not, require that all oral requests be confirmed in writing. Borrower agrees to be liable for all sums either (i) advanced in accordance with the instructions of an authorized person or (ii) credited to any of Borrower's accounts maintained with Bank. Prior to an Event of Default (as defined in the Loan Agreement, as hereinafter defined), Borrower may borrow, repay, and reborrow pursuant to the terms of the Loan Agreement dated September 28, 2017, between Borrower and Bank (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement").
- Borrower hereby authorizes Bank to automatically draft from its demand deposit or savings account(s) maintained with Bank or another bank, any payment(s), including late fees and other fees and charges due under this Agreement on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or another bank.
- \_\_\_\_\_.

The following scheduled payment(s) is (are) deferred:

- \$\_\_\_\_ principal }  
 \$\_\_\_\_ interest } Payments due on \_\_\_\_\_

is (are) hereby deferred. Payments will resume on \_\_\_\_ according to the schedule contained herein or to the existing schedule (if no other changes are made herein).

Borrower shall pay to Bank, or order, a late fee in the amount of five percent (5.0%) of any installment past due for ten (10) or more days after written notice is received by Borrower regarding same. When any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, Borrower shall pay to Bank a returned payment fee (currently \$25.00) if Borrower or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to nonsufficient funds. **Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under the Promissory Note or this Agreement, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless such payment is in fact sufficient to pay the amount due hereunder.**

All interest shall be computed and charged for the actual number of days elapsed on the basis of a year consisting of three hundred sixty (360) days. In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased, or additional supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in the Bank's sole discretion), in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as the Bank's Prime Rate or the One Month LIBOR; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount.

Borrower agrees that the only interest charge is the interest actually stated in the Promissory Note, as modified, and that any renewal or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under the Promissory Note, and such charges shall be fully earned and non-refundable when accrued. All other charges imposed by Bank upon Borrower in connection with the Promissory Note, as modified, and the loan evidenced thereby including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, reasonable attorneys' fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred or to be incurred by Bank in connection with the Promissory Note, as modified, and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due. Time is of the essence in the performance of this Agreement.

The term "Prime Rate," if used herein, means the rate of interest per annum announced by the Bank from time to time and adopted as its Prime Rate at its executive offices in Winston-Salem, North Carolina. The Prime Rate is one of several rate indexes employed by the Bank when extending credit, and not necessarily the lowest rate. Any change in the interest rate resulting from a change in the Bank's Prime Rate shall become effective as of the opening of business on the effective date of the change.

In addition to Bank's right of setoff and other liens and security interests previously granted to Bank, Borrower hereby grants to Bank a security interest in all of its deposit accounts maintained with Bank, which shall serve as collateral for the indebtedness and obligations evidenced by the Promissory Note and this Agreement. The Bank may, at its option, charge any reasonable fees for the modification, renewal, extension, or amendment of any of the terms of the Promissory Note(s) or this Agreement not prohibited by applicable law.

Unless otherwise provided herein, it is expressly understood and agreed by Borrower that any and all real and personal property given or pledged, whether by Borrower or a third party, as collateral to secure the Promissory Note, shall remain as security for the Promissory Note as modified hereby.

The two (2) paragraphs in the Promissory Note commencing with the words "Subject to applicable notice periods" on page 2 and "Notwithstanding any provision contained" on page 3 of the Promissory Note are hereby deleted in their entirety.

COLLATERAL:  The Promissory Note, as modified, and the performance of the terms of any agreement or instrument relating to, evidencing, or securing the Promissory Note shall be additionally secured by the collateral hereinafter described, a new security instrument shall be executed by Borrower and/or Debtor(s)/Grantor(s), and all other steps necessary to perfect or record the Bank's lien with priority acceptable to Bank shall be taken. All of the terms, conditions and covenants of the below-described agreements ("Additional Agreements") are expressly made a part of the Promissory Note and this Agreement by reference in the same manner and with the same effect as if set forth herein at length, and Bank is entitled to the benefits of and remedies provided in the Additional Agreements and any other related documents given by Borrower, any guarantor, or any pledgor in favor of Bank.

Date: March 30, 2018                      Type of Agreement: First Amendment to Loan Agreement and First Amendment to Security Agreement

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Between: Borrower and Bank

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Date: March 30, 2018                      Type of Agreement: Texas Deed of Trust and Security Agreement

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From: Borrower                              In favor of: Bank as beneficiary

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Date: March 30, 2018                      Type of Agreement: Assignment of Leases and Rents

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From: Borrower                              In favor of: Bank as assignee

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\_\_\_\_\_

The security interest in the collateral hereinafter described is hereby terminated with the consent of the Bank and such collateral shall cease to serve as security for payment of the Promissory Note or this Agreement: \_\_\_\_\_

If the Promissory Note being modified by this Agreement is signed by more than one person or entity, the Promissory Note shall be the joint and several obligation and liability of all of the undersigned. It is expressly agreed that this Agreement is a modification of the Promissory Note only and not a novation. The original indebtedness and obligation of Borrower evidenced by the Promissory Note is not extinguished hereby and except for the modifications contained herein, the Promissory Note, and any other loan documents securing or relating to the Promissory Note, shall be and remain in full force and effect. This Agreement shall not release or affect the liability of any guarantors, endorsers or obligors of the Promissory Note. Borrower hereby represents and warrants to Bank that all guarantors, endorsers, pledgors or other obligors of the Borrower's indebtedness have approved and consented to the terms of this Agreement, have waived any objection hereto, have affirmed any and all obligations to Bank and certify that there are no defenses or offsets against such obligations to Bank, including without limitation the Promissory Note. Bank expressly reserves all rights as to any party with right of recourse on the Promissory Note.

Borrower agrees that if Bank has released any collateral, it shall not be required or obligated to take any further steps to release such collateral from any lien or security interest unless Bank determines, in its sole discretion, that it may do so without releasing or impairing its existing liens and security interests or its priority in other collateral; and unless Borrower bears the reasonable cost of such action. No delay or omission on the part of the Bank in exercising any right under the Promissory Note or this Agreement shall operate as a waiver of such right or of any other right of the Bank, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same, or of any other right on any future occasion. Each of the parties signing this Agreement regardless of the time, order or place of signing waives presentment, demand, protest, and notices of every kind, and assents to any one or more extensions or postponements of the time of payment or any other indulgences, to any substitutions, exchanges or releases of collateral by Bank, and to the additions or releases of any other parties or persons primarily or secondarily liable herefor. Wherever possible, the provisions of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective only to the extent of any such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. All rights and obligations arising hereunder shall be governed by and construed in accordance with the laws of the same state which governs the interpretation and enforcement of the Promissory Note.

From and after any Event of Default under this Agreement, the Promissory Note, or any related loan document, including failure to pay upon final maturity, interest shall accrue on the sum of the principal balance then outstanding at the rate of fifteen percent (15.0%) per annum (“Default Rate”), until such principal and interest have been paid in full; provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of Texas; and further that such rate shall apply after judgment. If the Promissory Note and this Agreement are placed with an attorney for collection, Borrower agrees to pay, in addition to principal, interest, and late fees, if any, all costs of collection, including but not limited to all reasonable attorneys' fees incurred by Bank, whether or not there is a lawsuit, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any court costs.

To the maximum extent permitted by applicable law, Borrower hereby waives all rights, remedies, claims, and defenses based upon or related to Sections 51.003, 51.004, and 51.005 of the Texas Property Code, to the extent the same pertain or may pertain to any enforcement of this Note. Unless otherwise required under the Loan Agreement, if applicable, and as long as any indebtedness evidenced by the Promissory Note, as modified hereby, remains outstanding or as long as Bank remains obligated to make advances, each Borrower shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of the Bank. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same instrument.

Any legal action with respect to the indebtedness evidenced by the Promissory Note and this Agreement may be brought in the courts of the State of Texas and County of Harris or in the appropriate United States District Court situated in Texas, and Borrower hereby accepts and unconditionally submits to the jurisdiction of such courts. Borrower hereby waives any objection to the laying of venue based on the grounds of forum non conveniens with respect thereto.

**REQUIRED INFORMATION.** To help the government fight the funding of terrorism and money laundering activities, federal law requires Bank to obtain, verify and record information that identifies each person or entity obtaining a loan including the Borrower’s legal name, address, tax identification number, date of birth, driver’s license, organizational documents or other identifying documents. Failure to provide the required information will result in a violation of the U.S. Patriot Act and will constitute a default under this instrument. In addition, no Borrower, any of its affiliates, or any of their respective directors, officers, managers, partners, or any other authorized representatives is named as a “Specially Designated National and Blocked Person”, on the list published by the U.S. Department of the Treasury Office of Foreign Assets Control (OFAC) at its official website.

**UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE BORROWER AND BANK HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS AGREEMENT, THE PROMISSORY NOTE OR ANY OF THE LOAN DOCUMENTS EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE BORROWER AND BANK, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. BORROWER AND BANK AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT BORROWER OR BANK MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF BANK AND BORROWER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN AND BORROWER TO ENTER INTO THIS AGREEMENT. FURTHER, THE BORROWER HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK’S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK’S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION. BORROWER AND BANK EACH ACKNOWLEDGE THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS PARAGRAPH, THAT IT FULLY UNDERSTANDS ITS TERMS, CONTENT AND EFFECT, AND THAT IT VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS PARAGRAPH.**

(SIGNATURES ON FOLLOWING PAGE)

# BB&T

## NOTE MODIFICATION SIGNATURE PAGE

Borrower: Applied Optoelectronics, Inc.

Account Number: 9700029240  
Modification Amount: \$60,000,000.00

Note Number: 00001  
Modification Date: March 30, 2018

**IN WITNESS WHEREOF**, the undersigned have caused this Note Modification Agreement to be executed, as of the date first written above.

APPLIED OPTOELECTRONICS, INC.  
Name of Corporation

WITNESS:

Print Name:

By:

Name: **Stefan Murry**  
Title: Chief Financial officer

Print Name:

By:

Name: **David Kuo**  
Title: Vice President, General Counsel and Secretary

# BB&T

## ADDENDUM TO PROMISSORY NOTE

BB&T Account No. 9700029240

THIS ADDENDUM TO PROMISSORY NOTE ("Addendum") is hereby made a part of the Note Modification Agreement dated as of March 30, 2018, from **APPLIED OPTOELECTRONICS, INC.** ("Borrower") payable to the order of **BRANCH BANKING AND TRUST COMPANY** ("Bank") in the principal amount of \$60,000,000.00, which Note Modification Agreement amends that certain Promissory Note dated September 28, 2017 (including all renewals, extensions, modifications and substitutions thereof, the "Note").

### I. DEFINITIONS.

1.1 **Adjusted LIBOR Rate** means a rate of interest per annum, which shall be adjusted monthly on the first day of each LIBOR Interest Period, equal to the sum obtained (rounded upwards, if necessary, to the next higher 1/16th of 1.0%) by adding (i) the One Month LIBOR plus (ii) the Applicable Margin. The Adjusted LIBOR Rate shall be adjusted for any change in the LIBOR Reserve Percentage so that Bank shall receive the same yield. The interest rate will in no instance exceed the maximum rate permitted by applicable law and if checked here  the interest rate will not decrease below a fixed minimum rate of \_\_\_\_%. If checked here  the interest rate will not exceed a fixed maximum rate of \_\_\_\_% or  an average maximum rate of \_\_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Note is repaid in full by Borrower or  annually beginning on \_\_\_\_\_. If the loan has been repaid prior to this date, no reimbursement will be made.

1.2 **Applicable Margin** means the margin set forth below, as determined by Borrower's ratio of Funded Debt to EBITDA (in each case, as defined in that certain Loan Agreement dated September 28, 2017, between Borrower and Bank (as at any time amended, restated, supplemented or otherwise modified, the "Loan Agreement")):

| <u>Level</u> | <u>Funded Debt to EBITDA Ratio</u> | <u>Line of Credit Margin</u> |
|--------------|------------------------------------|------------------------------|
| I            | < 1.0 to 1.0                       | 1.40%                        |
| II           | ≥ 1.0 to 1                         | 1.50%                        |
|              | ≤ 2.0 to 1.0                       |                              |
| III          | > 2.0 to 1.0                       | 2.00%                        |

Until April 30, 2018, the margin shall be determined as if Level I were applicable. Thereafter, the margin shall be subject to increase or decrease by Bank on the first day of each LIBOR Interest Period. If Bank is unable to calculate the Funded Debt to EBITDA ratio for a fiscal quarter due to Borrower's failure to deliver any financial statements when required under the Loan Agreement, then, at the option of Bank, the margin shall be determined as if Level III were applicable until the first day of the calendar month following its receipt of such financial statements. If, for any reason (including inaccurate reporting by Borrower), 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 Borrower shall immediately pay to Bank 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. If, for any reason (excluding inaccurate reporting by Borrower and any other reason attributable to Borrower), it is determined that a lower Applicable Margin should have applied to the most recent fiscal quarter then ending than was actually applied, then the proper margin shall be applied retroactively (solely with respect to such most recent fiscal quarter then ending) and Borrower may credit against its next payment an amount equal to the difference between the amount of interest and fees that would have accrued during such most recent fiscal quarter then ending using the proper margin and the amount actually paid during such most recent fiscal quarter then ending.

1.3 **Business Day** means a day other than a Saturday, Sunday, legal holiday or any other day when the Bank is authorized or required by applicable law to be closed.

1.4 **LIBOR Advance** means the advances made by Bank to Borrower evidenced by this Note upon which the Adjusted LIBOR Rate of interest shall apply.

1.5 **LIBOR Interest Period** means the period, as may be elected by the Borrower applicable to any LIBOR Advance, commencing on the date the Note is first made (or the date of any subsequent LIBOR addendum to the Note) and (i) if adjusted monthly, ending on the day that is immediately prior to the numerically corresponding day of each month thereafter or (ii) if adjusted quarterly, ending on the day that is immediately prior to the numerically corresponding day of each quarter thereafter; provided that:

(a) any LIBOR Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such LIBOR Interest Period shall end on the next preceding Business Day; and

(b) any LIBOR Interest Period which begins on a day for which there is no numerically corresponding day in a subsequent month if adjusted monthly or in a subsequent quarter if adjusted quarterly, shall end on the last Business Day of each subsequent month if adjusted monthly or on the last Business Day of each subsequent quarter if adjusted quarterly.

1.6 **LIBOR Reserve Percentage** means the maximum aggregate rate at which reserves (including, without limitation, any marginal supplemental or emergency reserves) are required to be maintained under Regulation D by member banks of the Federal Reserve System with respect to dollar funding in the London interbank market. Without limiting the effect of the foregoing, the LIBOR Reserve Percentage shall reflect any other reserves required to be maintained by such member banks by reason of any applicable regulatory change against (i) any category of liability which includes deposits by reference to which the Adjusted LIBOR Rate is to be determined or (ii) any category of extensions of credit or other assets related to LIBOR.

1.7 **One Month LIBOR** means the average rate quoted by Bloomberg Finance L.P., or any quoting service or commonly available source utilized by the Bank, on the determination date for deposits in U. S. Dollars offered in the London interbank market for one month determined at approximately 11:00 am London time two (2) Business Days prior to the commencement of the applicable LIBOR Interest Period; provided that if the above method for determining one month LIBOR shall not be available, the rate quoted in *The Wall Street Journal*, or a rate determined by a substitute method of determination agreed on by Borrower and Bank; provided, if such agreement is not reached within a reasonable period of time (in Bank's reasonable judgment), a rate reasonably determined by Bank in its sole discretion as a rate being paid, as of the determination date, by first class banking organizations (as determined by Bank) in the London interbank market for U. S. Dollar deposits; and provided further that if One Month LIBOR determined as provided above would be less than zero percent (0%), then One Month LIBOR shall be deemed to be zero percent (0%).

1.8 **Standard Rate** means, for any day, a rate per annum equal to the Prime Rate Equivalent (as defined in the Loan Agreement), and each change in the Standard Rate shall be effective on the date any change in the Prime Rate is publicly announced as being effective.

## II. LOAN BEARING ADJUSTED LIBOR RATE

2.1 Application of Adjusted LIBOR Rate. The Adjusted LIBOR Rate shall apply to the entire principal balance outstanding of a LIBOR Advance for any LIBOR Interest Period.

### 2.2 Adjusted LIBOR Based Rate Protections.

(a) Inability to Determine Rate. In the event that Bank shall have determined, which determination shall be final, conclusive and binding, that by reason of circumstances occurring after the date of this Note affecting the London interbank market, adequate and fair means do not exist for ascertaining the One Month LIBOR on the basis provided for in this Note, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination, whereupon (i) no LIBOR Advance shall be made until Bank notifies Borrower that the circumstances giving rise to such notice no longer exist, and (ii) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

(b) Illegality; Impracticability. In the event that Bank shall determine, which determination shall be final, conclusive and binding, that the making, maintaining or continuance of any portion of a LIBOR Advance (i) has become unlawful as a result of compliance by Bank with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any of the same not having the force of law even though the failure to comply therewith would not be unlawful) or (ii) has become impracticable, or would cause Bank material hardship, as a result of contingencies occurring after the date of this Note materially and adversely affect the London interbank market or Bank's ability to make LIBOR Advances generally, then, and in any such event, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination. Thereafter, (x) the obligation of Bank to make any LIBOR Advances or to convert any portion of the loan to a LIBOR Advance shall be suspended until such notice shall be withdrawn by Bank, and (y) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

APPLIED OPTOELECTRONICS, INC.

\_\_\_\_\_  
Name of Corporation

WITNESS:

\_\_\_\_\_  
Print Name:

By:

Name:  
Title:

\_\_\_\_\_  
**Stefan Murry**  
Chief Financial officer

\_\_\_\_\_  
Print Name:

By:

Name:  
Title:

\_\_\_\_\_  
**David Kuo**  
Vice President, General Counsel and Secretary

**EXHIBIT B**

Term Note

(See attached.)

Borrower: Applied Optoelectronics, Inc.  
Account Number 9700029240

Note Number: 00003

## BB&T

ADDRESS: 1319 Jess Pirtle Blvd  
Sugar Land, Texas 77478

Sugar Land, Texas

### PROMISSORY NOTE

Date: March 30, 2018

**APPLIED OPTOELECTRONICS, INC.** (whether one or more, the "Borrower") HEREBY REPRESENTS THAT THE LOAN EVIDENCED BY THIS PROMISSORY NOTE ("Note") IS BEING OBTAINED FOR BUSINESS/COMMERCIAL OR AGRICULTURAL PURPOSES AND NOT FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES. For value received, Borrower, jointly and severally if more than one, promises to pay to **BRANCH BANKING AND TRUST COMPANY**, a North Carolina banking corporation (including its successors and assigns, hereinafter referred to as "Bank"), or order, at any of Bank's offices in the above referenced city (or such other place or places that may be hereafter designated by Bank), the sum of Twenty-Six Million and no/100 Dollars (\$26,000,000.00), or such lesser amount outstanding at maturity, in immediately available currency of the United States of America.

Borrower shall pay a prepayment fee as set forth in the Prepayment Fee Addendum attached to this Note.

#### Interest shall accrue from the date hereof on the unpaid balance outstanding from time to time at the:

- Fixed rate of \_\_\_% per annum.
- Variable rate of the Bank's Prime Rate plus \_\_\_% per annum to be adjusted \_\_\_ as the Bank's Prime Rate changes. If checked here , the interest rate will not exceed a(n)  fixed  average maximum rate of \_\_\_% or a  floating maximum rate of the greater of \_\_\_% or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of \_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Promissory Note is repaid in full by Borrower  annually beginning on \_\_\_.
- Fixed rate of \_\_\_% per annum through \_\_\_ which automatically converts on \_\_\_ to a variable rate equal to Bank's Prime Rate plus \_\_\_% per annum which shall be adjusted \_\_\_ as such Prime Rate changes.
- The Adjusted LIBOR Rate as more specifically described in the Addendum to Note attached hereto and incorporated herein.

#### Principal and interest are payable as follows:

- Principal (plus any accrued interest not otherwise scheduled herein) is due in full at maturity on \_\_\_\_\_.
- Payable in consecutive monthly installments of  Principal  Principal and Interest commencing on May 1, 2018, and continued on the same day of each calendar period thereafter, in seventy-one (71) equal principal payments of \$179,166.67, together with accrued interest, with one final payment of all remaining principal and accrued interest due on April 1, 2024.
- Accrued interest is payable \_\_\_ commencing on \_\_\_, and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on \_\_\_\_\_.
- Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder monthly on the first day of the calendar month and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than one hundred twenty (120) months from the date of this Note. Borrower understands the payment may increase if interest rates increase.
- This Note evidences a revolving line of credit and advances under this Note, as well as directions for payment from Borrower's accounts, may be requested orally or in writing by Borrower. Bank may, but need not, require that all oral requests be confirmed in writing. Borrower agrees to be liable for all sums either (i) advanced in accordance with the instructions of an authorized person or (ii) credited to any of Borrower's accounts maintained with Bank. Prior to an Event of Default (as defined in the Loan Agreement, as hereinafter defined), Borrower may borrow, repay, and reborrow pursuant to the terms of the Loan Agreement, if any, as hereinafter defined.
- Borrower hereby authorizes Bank to automatically draft from its demand deposit or savings account(s) maintained with Bank or another bank, any payment(s), including late fees and other fees and charges due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or another bank.
- \_\_\_\_\_.

Borrower shall pay to Bank, or order, a late fee in the amount of five percent (5.0%) of any installment past due for ten (10) or more days after written notice is received by Borrower regarding same. When any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, Borrower shall pay to Bank a returned payment fee (currently \$25.00) if Borrower or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to nonsufficient funds. **Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless such payment is in fact sufficient to pay the amount due hereunder.**

All interest shall be computed and charged for the actual number of days elapsed on the basis of a year consisting of three hundred sixty (360) days. In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased, or additional supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in Bank's sole discretion), in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as Bank's Prime Rate or the One Month LIBOR; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount.

The term "Prime Rate," if used herein, means the rate of interest per annum announced by Bank from time to time and adopted as its Prime Rate at its executive offices in Winston-Salem, North Carolina. The Prime Rate is one of several rate indexes employed by Bank when extending credit, and not necessarily the lowest rate. Any change in the interest rate resulting from a change in Bank's Prime Rate shall become effective as of the opening of business on the effective date of the change.

This Note is executed and delivered by Borrower in connection with the following agreements (if any) between Borrower or other parties owning collateral and Bank:

Texas Deed of Trust and Security Agreement granted in favor of Bank as beneficiary:

dated as of March 30, 2018 in the maximum principal amount of \$21,500,000.00, executed by Borrower (as at any time amended, restated, supplemented or otherwise modified, the "Deed of Trust")

Assignment of Leases and Rents granted in favor of Bank as assignee:

dated as of March 30, 2018, executed by Borrower

Security Agreement(s) granting a security interest to Bank:

dated September 28, 2017, given by Borrower, as amended by that certain First Amendment to Loan Agreement and First Amendment to Security Agreement dated of even date herewith, executed by Borrower.

dated \_\_\_\_\_, given by \_\_\_\_\_

Securities Account Pledge and Security Agreement dated \_\_\_\_\_, executed by \_\_\_\_\_.

Control Agreement(s) dated \_\_\_\_\_, covering  Deposit Account(s)  Investment Property

Letter of Credit Rights  Electronic Chattel Paper

Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificates of Deposit) dated \_\_\_\_\_, executed by \_\_\_\_\_.

Assignment of Deposit Account dated \_\_\_\_\_, executed by \_\_\_\_\_.

Pledge and Security Agreement for Publicly Traded Certificated Securities dated \_\_\_\_\_, executed by \_\_\_\_\_.

Assignment of Life Insurance Policy as Collateral dated \_\_\_\_\_, executed by \_\_\_\_\_.

Loan Agreement and Schedules, if any, dated September 28, 2017, executed by  Borrower and  Guarantor(s), as amended by that certain First Amendment to Loan Agreement and First Amendment to Security Agreement dated of even date herewith, executed by Borrower (and as at any time further amended, restated, supplemented or otherwise modified, the "Loan Agreement").

Trademark Security Agreement dated September 28, 2017, executed by Borrower.

Patent Security Agreement dated September 28, 2017, executed by Borrower.

All of the terms, conditions and covenants of the above described agreements (the "Agreements") are expressly made a part of this Note by reference in the same manner and with the same effect as if set forth herein at length, and Bank is entitled to the benefits of and remedies provided in the Agreements and any other related document given by Borrower, any guarantor or any pledgor in favor of Bank. In addition to Bank's right of setoff and to any liens and security interests granted to Bank in the Agreements, Borrower hereby grants to Bank a security interest in all of its deposit accounts maintained with Bank, which shall serve as collateral for the indebtedness and obligations evidenced by this Note.

Borrower agrees that the only interest charge is the interest actually stated in this Note, and that any loan or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under this Note, and such charges shall be fully earned and non-refundable when accrued. All other charges imposed by Bank upon Borrower in connection with this Note and the loan including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, reasonable attorneys' fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred or to be incurred by Bank in connection with this Note and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due. Time is of the essence of this Note.

No delay or omission on the part of Bank or other holder hereof in exercising any right hereunder shall operate as a waiver of such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or of any other right on any future occasion. Each Borrower regardless of the time, order or place of signing waives presentment, demand, protest and notices of every kind and assents to any one or more extensions or postponements of the time of payment or any other indulgences, to any substitutions, exchanges or releases of collateral by Bank, and to the additions or releases of any other parties or persons primarily or secondarily liable herefor.

Upon an Event of Default (as defined in the Loan Agreement), in addition to Bank's rights set forth in the Loan Agreement, Deed of Trust and other Loan Documents (as defined in the Loan Agreement), Bank may, at its option and subject to any applicable notice period (i) cease making advances or disbursements; (ii) advance funds necessary to remedy any default or pay any lien filed against any of the collateral; (iii) take possession of the collateral or any part thereof; (iv) foreclose Bank's security interest and/or lien on any collateral in accordance with applicable law; (v) make demand upon any or all guarantors; and (vi) exercise any other right or remedy which Bank has under this Note or any related documents or which is otherwise available at law or in equity. All of Bank's rights and remedies shall be cumulative and may be exercised singularly or concurrently. Any election by Bank to pursue any remedy shall not exclude the right to pursue any other remedy unless expressly prohibited by law, and any election by Bank to make expenditures or to take action to perform an obligation of Borrower, or of any Obligor, shall not affect Bank's right to declare a default and exercise its rights and remedies. In addition, upon default, Bank may pursue its full legal remedies under the Agreements and other remedies at law or equity, and the balance due hereunder may be charged against any obligation of Bank to any party including any Obligor.

From and after any Event of Default, interest shall accrue on the sum of the principal balance then outstanding at the rate of fifteen percent (15.0%) per annum ("Default Rate") until such principal and interest have been paid in full, provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of Texas; and further provided that such rate shall apply after judgment. If this Note is placed with an attorney for collection, Borrower agrees to pay, in addition to principal, interest, and late fees, if any, all costs of collection, including but not limited to all reasonable attorneys' fees incurred by Bank, whether or not there is a lawsuit, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any court costs.

To the maximum extent permitted by applicable law, Borrower hereby waives all rights, remedies, claims, and defenses based upon or related to Sections 51.003, 51.004, and 51.005 of the Texas Property Code, to the extent the same pertain or may pertain to any enforcement of this Note.

Unless otherwise required under the Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Note remains outstanding or as long as Bank remains obligated to make advances, each Borrower shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of Bank.

All obligations of Borrower shall bind his heirs, executors, administrators, successors, and/or assigns. Use of the masculine pronoun herein shall include the feminine and the neuter, and also the plural. If more than one party shall execute this Note, the term "Borrower" as used herein shall mean all the parties signing this Note and each of them, and all such parties shall be jointly and severally obligated hereunder. Wherever possible, each provision of this Note shall be interpreted in such a manner to be effective and valid under applicable law, but if any provision of this Note shall be prohibited by or invalid under such law, such provision shall be ineffective but only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note. Each Borrower hereby waives all exemptions and homestead laws. The proceeds of the loan evidenced by this Note may be paid to any Borrower. This Note may be executed in any number of counterparts, each of which shall be an original but all of which taken together shall constitute one and the same instrument.

From time to time the maturity date of this Note may be extended, or this Note may be renewed in whole or in part, or a new note of different form may be substituted for this Note, or the rate of interest may be modified, or changes may be made in consideration of loan extensions, and Bank may, from time to time, waive or surrender, either in whole or in part any rights, guaranties, security interests or liens, given for the benefit of Bank in connection with the payment and the securing of payment of this Note; but no such occurrence shall in any manner affect, limit, modify, or otherwise impair any rights, guaranties or security of Bank not specifically waived, released, or surrendered in writing, nor shall Borrower or any Obligor be released from liability by reason of the occurrence of any such event. Bank, from time to time, shall have the unlimited right to release any person who might be liable hereunder, and such release shall not affect or discharge the liability of any other person who is or might be liable hereunder. No waivers and modifications shall be valid unless in writing and signed by Bank. Bank may, at its option, charge any reasonable fees for the modification, renewal, extension, or amendment of any of the terms of this Note not prohibited by applicable law. In case of a conflict between the terms of this Note and any Loan Agreement executed in connection herewith, the priority of controlling terms shall be first this Note, then the Loan Agreement. This Note shall be governed by and construed in accordance with the laws of the State of Texas.

Any legal action with respect to the indebtedness evidenced by this Note may be brought in the courts of the State of Texas and County of Harris or in the appropriate United States District Court situated in Texas, and Borrower hereby accepts and unconditionally submits to the jurisdiction of such courts. Borrower hereby waives any objection to the laying of venue based on the grounds of forum non conveniens with respect thereto.

**REQUIRED INFORMATION FOR A NEW LOAN.** To help the government fight the funding of terrorism and money laundering activities, federal law requires Bank to obtain, verify and record information that identifies each person or entity obtaining a loan including Borrower's legal name, address, tax identification number, date of birth, driver's license, organizational documents or other identifying documents. Failure to provide the required information will result in a violation of the U.S. Patriot Act and will constitute a default under this instrument. In addition, no Borrower, any of its affiliates, or any of their respective directors, officers, managers, partners, or any other authorized representatives is named as a "Specially Designated National and Blocked Person", on the list published by the U.S. Department of the Treasury Office of Foreign Assets Control (OFAC) at its official website.

**UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, BORROWER AND BANK HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS NOTE, ANY OF THE LOAN DOCUMENTS EXECUTED IN CONNECTION HEREWITH OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN BORROWER AND BANK, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. BORROWER AND BANK AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT BORROWER OR BANK MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF BANK AND BORROWER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN AND BORROWER TO ENTER INTO THIS AGREEMENT. FURTHER, BORROWER HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION. BORROWER AND BANK EACH ACKNOWLEDGE THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS PARAGRAPH, THAT IT FULLY UNDERSTANDS ITS TERMS, CONTENT AND EFFECT, AND THAT IT VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS PARAGRAPH.**

(SIGNATURES ON FOLLOWING PAGE)

# BB&T

## PROMISSORY NOTE SIGNATURE PAGE

Borrower: Applied Optoelectronics, Inc.  
Account Number: 9700029240  
Note Amount: \$21,500,000.00

Note Number: 00003  
Date: March 30, 2018

IN WITNESS WHEREOF, Borrower, on the day and year first written above, has executed, or caused this Note to be executed by its authorized officer or representative. Borrower acknowledges receipt of a completed copy of this Note.

APPLIED OPTOELECTRONICS, INC.

\_\_\_\_\_  
Name of Corporation

WITNESS:

\_\_\_\_\_  
Print Name:

By:

Name:  
Title:

\_\_\_\_\_  
**Stefan Murry**  
Chief Financial officer

\_\_\_\_\_  
Print Name:

By:

Name:  
Title:

\_\_\_\_\_  
**David Kuo**  
Vice President, General Counsel and Secretary

# BB&T

## ADDENDUM TO PROMISSORY NOTE

BB&T Account No. 9700029240

THIS ADDENDUM TO PROMISSORY NOTE (“Addendum”) is hereby made a part of the Promissory Note dated as of March 30, 2018, from **APPLIED OPTOELECTRONICS, INC.** (“Borrower”) payable to the order of **BRANCH BANKING AND TRUST COMPANY** (“Bank”) in the principal amount of \$26,000,000.00 (including all renewals, extensions, modifications and substitutions thereof, the “Note”).

### I. DEFINITIONS.

1.1 **Adjusted LIBOR Rate** means a rate of interest per annum, which shall be adjusted monthly on the first day of each LIBOR Interest Period, equal to the sum obtained (rounded upwards, if necessary, to the next higher 1/16th of 1.0%) by adding (i) the One Month LIBOR plus (ii) the Applicable Margin. The Adjusted LIBOR Rate shall be adjusted for any change in the LIBOR Reserve Percentage so that Bank shall receive the same yield. The interest rate will in no instance exceed the maximum rate permitted by applicable law and if checked here  the interest rate will not decrease below a fixed minimum rate of \_\_\_\_%. If checked here  the interest rate will not exceed a fixed maximum rate of \_\_\_\_% or  an average maximum rate of \_\_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Note is repaid in full by Borrower or  annually beginning on \_\_\_\_\_. If the loan has been repaid prior to this date, no reimbursement will be made.

1.2 **Applicable Margin** means the margin set forth below, as determined by Borrower’s ratio of Funded Debt to EBITDA (in each case, as defined in that certain Loan Agreement dated September 28, 2017, between Borrower and Bank (as at any time amended, restated, supplemented or otherwise modified, the “Loan Agreement”):

| <u>Level</u> | <u>Funded Debt to EBITDA Ratio</u> | <u>Term Loan Margin</u> |
|--------------|------------------------------------|-------------------------|
| I            | < 1.0 to 1.0                       | 1.15%                   |
| II           | ≥ 1.0 to 1                         | 1.45%                   |
|              | ≤ 2.0 to 1.0                       |                         |
| III          | > 2.0 to 1.0                       | 2.00%                   |

Until April 30, 2018, the margin shall be determined as if Level I were applicable. Thereafter, the margin shall be subject to increase or decrease by Bank on the first day of each LIBOR Interest Period. If Bank is unable to calculate the Funded Debt to EBITDA ratio for a fiscal quarter due to Borrower’s failure to deliver any financial statements when required under the Loan Agreement, then, at the option of Bank, the margin shall be determined as if Level III were applicable until the first day of the calendar month following its receipt of such financial statements. If, for any reason (including inaccurate reporting by Borrower), 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 Borrower shall immediately pay to Bank 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. If, for any reason (excluding inaccurate reporting by Borrower and any other reason attributable to Borrower), it is determined that a lower Applicable Margin should have applied to the most recent fiscal quarter then ending than was actually applied, then the proper margin shall be applied retroactively (solely with respect to such most recent fiscal quarter then ending) and Borrower may credit against its next payment an amount equal to the difference between the amount of interest and fees that would have accrued during such most recent fiscal quarter then ending using the proper margin and the amount actually paid during such most recent fiscal quarter then ending.

1.3 **Business Day** means a day other than a Saturday, Sunday, legal holiday or any other day when the Bank is authorized or required by applicable law to be closed.

1.4 **LIBOR Advance** means the advances made by Bank to Borrower evidenced by this Note upon which the Adjusted LIBOR Rate of interest shall apply.

1.5 **LIBOR Interest Period** means the period, as may be elected by the Borrower applicable to any LIBOR Advance, commencing on the date the Note is first made (or the date of any subsequent LIBOR addendum to the Note) and (i) if adjusted monthly, ending on the day that is immediately prior to the numerically corresponding day of each month thereafter or (ii) if adjusted quarterly, ending on the day that is immediately prior to the numerically corresponding day of each quarter thereafter; provided that:

(a) any LIBOR Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such LIBOR Interest Period shall end on the next preceding Business Day; and

(b) any LIBOR Interest Period which begins on a day for which there is no numerically corresponding day in a subsequent month if adjusted monthly or in a subsequent quarter if adjusted quarterly, shall end on the last Business Day of each subsequent month if adjusted monthly or on the last Business Day of each subsequent quarter if adjusted quarterly.

1.6 **LIBOR Reserve Percentage** means the maximum aggregate rate at which reserves (including, without limitation, any marginal supplemental or emergency reserves) are required to be maintained under Regulation D by member banks of the Federal Reserve System with respect to dollar funding in the London interbank market. Without limiting the effect of the foregoing, the LIBOR Reserve Percentage shall reflect any other reserves required to be maintained by such member banks by reason of any applicable regulatory change against (i) any category of liability which includes deposits by reference to which the Adjusted LIBOR Rate is to be determined or (ii) any category of extensions of credit or other assets related to LIBOR.

1.7 **One Month LIBOR** means the average rate quoted by Bloomberg Finance L.P., or any quoting service or commonly available source utilized by the Bank, on the determination date for deposits in U. S. Dollars offered in the London interbank market for one month determined at approximately 11:00 am London time two (2) Business Days prior to the commencement of the applicable LIBOR Interest Period; provided that if the above method for determining one month LIBOR shall not be available, the rate quoted in *The Wall Street Journal*, or a rate determined by a substitute method of determination agreed on by Borrower and Bank; provided, if such agreement is not reached within a reasonable period of time (in Bank's reasonable judgment), a rate reasonably determined by Bank in its sole discretion as a rate being paid, as of the determination date, by first class banking organizations (as determined by Bank) in the London interbank market for U. S. Dollar deposits; and provided further that if One Month LIBOR determined as provided above would be less than zero percent (0%), then One Month LIBOR shall be deemed to be zero percent (0%).

1.8 **Standard Rate** means, for any day, a rate per annum equal to the Prime Rate Equivalent (as defined in the Loan Agreement), and each change in the Standard Rate shall be effective on the date any change in the Prime Rate is publicly announced as being effective.

## II. LOAN BEARING ADJUSTED LIBOR RATE

2.1 Application of Adjusted LIBOR Rate. The Adjusted LIBOR Rate shall apply to the entire principal balance outstanding of a LIBOR Advance for any LIBOR Interest Period.

### 2.2 Adjusted LIBOR Based Rate Protections.

(a) Inability to Determine Rate. In the event that Bank shall have determined, which determination shall be final, conclusive and binding, that by reason of circumstances occurring after the date of this Note affecting the London interbank market, adequate and fair means do not exist for ascertaining the One Month LIBOR on the basis provided for in this Note, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination, whereupon (i) no LIBOR Advance shall be made until Bank notifies Borrower that the circumstances giving rise to such notice no longer exist, and (ii) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

(b) Illegality; Impracticability. In the event that Bank shall determine, which determination shall be final, conclusive and binding, that the making, maintaining or continuance of any portion of a LIBOR Advance (i) has become unlawful as a result of compliance by Bank with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any of the same not having the force of law even though the failure to comply therewith would not be unlawful) or (ii) has become impracticable, or would cause Bank material hardship, as a result of contingencies occurring after the date of this Note materially and adversely affect the London interbank market or Bank's ability to make LIBOR Advances generally, then, and in any such event, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination. Thereafter, (x) the obligation of Bank to make any LIBOR Advances or to convert any portion of the loan to a LIBOR Advance shall be suspended until such notice shall be withdrawn by Bank, and (y) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

APPLIED OPTOELECTRONICS, INC.

\_\_\_\_\_  
Name of Corporation

WITNESS:

\_\_\_\_\_  
Print Name:

By: \_\_\_\_\_

Name: **Stefan Murry**  
Title: Chief Financial officer

\_\_\_\_\_  
Print Name:

By: \_\_\_\_\_

Name: **David Kuo**  
Title: Vice President, General Counsel and Secretary

**EXHIBIT C**

CapEx Note

(See attached.)

Borrower: Applied Optoelectronics, Inc.  
Account Number 9700029240

Note Number: 00005

## BB&T

ADDRESS: 1319 Jess Pirtle Blvd  
Sugar Land, Texas 77478

Sugar Land, Texas

### PROMISSORY NOTE

Date: March 30, 2018

**APPLIED OPTOELECTRONICS, INC.** (whether one or more, the "Borrower") HEREBY REPRESENTS THAT THE LOAN EVIDENCED BY THIS PROMISSORY NOTE ("Note") IS BEING OBTAINED FOR BUSINESS/COMMERCIAL OR AGRICULTURAL PURPOSES AND NOT FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES. For value received, Borrower, jointly and severally if more than one, promises to pay to **BRANCH BANKING AND TRUST COMPANY**, a North Carolina banking corporation (including its successors and assigns, hereinafter referred to as "Bank"), or order, at any of Bank's offices in the above referenced city (or such other place or places that may be hereafter designated by Bank), the sum of Twenty-Six Million and no/100 Dollars (\$26,000,000.00), or such lesser amount outstanding at maturity, in immediately available currency of the United States of America.

Borrower shall pay a prepayment fee as set forth in the Prepayment Fee Addendum attached to this Note.

#### Interest shall accrue from the date hereof on the unpaid balance outstanding from time to time at the:

- Fixed rate of \_\_\_\_% per annum.
- Variable rate of the Bank's Prime Rate plus \_\_\_\_% per annum to be adjusted \_\_\_\_ as the Bank's Prime Rate changes. If checked here , the interest rate will not exceed a(n)  fixed  average maximum rate of \_\_\_\_% or a  floating maximum rate of the greater of \_\_\_\_% or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of \_\_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Promissory Note is repaid in full by Borrower  annually beginning on \_\_\_\_.
- Fixed rate of \_\_\_\_% per annum through \_\_\_\_ which automatically converts on \_\_\_\_ to a variable rate equal to Bank's Prime Rate plus \_\_\_\_% per annum which shall be adjusted \_\_\_\_ as such Prime Rate changes.
- The Adjusted LIBOR Rate as more specifically described in the Addendum to Note attached hereto and incorporated herein.

#### Principal and interest are payable as follows:

- Principal (plus any accrued interest not otherwise scheduled herein) is due in full at maturity on \_\_\_\_\_.
- Payable in consecutive monthly installments of  Principal  Principal and Interest commencing on the one-month anniversary of such CapEx Loan Advance, and continued on the same day of each calendar period thereafter, in fifty-nine (59) equal payments, each in an amount equal to 1/59th of the aggregate amount of such CapEx Loan Advance, with one final payment of all remaining principal and accrued interest due on the fifth (5th) anniversary of such CapEx Loan Advance.
- Accrued interest is payable \_\_\_\_ commencing on \_\_\_\_, and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on \_\_\_\_\_.
- Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder with respect to such CapEx Loan Advance monthly on the one-month anniversary of such CapEx Loan Advance and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than sixty (60) months from the date of this Note. Borrower understands the payment may increase if interest rates increase.
- This Note evidences a revolving line of credit and advances under this Note, as well as directions for payment from Borrower's accounts, may be requested orally or in writing by Borrower. Bank may, but need not, require that all oral requests be confirmed in writing. Borrower agrees to be liable for all sums either (i) advanced in accordance with the instructions of an authorized person or (ii) credited to any of Borrower's accounts maintained with Bank. Prior to an Event of Default (as defined in the Loan Agreement, as hereinafter defined), Borrower may borrow, repay, and reborrow pursuant to the terms of the Loan Agreement, if any, as hereinafter defined.
- Borrower hereby authorizes Bank to automatically draft from its demand deposit or savings account(s) maintained with Bank or another bank, any payment(s), including late fees and other fees and charges due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or another bank.
- \_\_\_\_\_.

Borrower shall pay to Bank, or order, a late fee in the amount of five percent (5.0%) of any installment past due for ten (10) or more days after written notice is received by Borrower regarding same. When any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, Borrower shall pay to Bank a returned payment fee (currently \$25.00) if Borrower or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to nonsufficient funds. **Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless such payment is in fact sufficient to pay the amount due hereunder.**

All interest shall be computed and charged for the actual number of days elapsed on the basis of a year consisting of three hundred sixty (360) days. In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased, or additional supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in Bank's sole discretion), in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as Bank's Prime Rate or the One Month LIBOR; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount.

The term "Prime Rate," if used herein, means the rate of interest per annum announced by Bank from time to time and adopted as its Prime Rate at its executive offices in Winston-Salem, North Carolina. The Prime Rate is one of several rate indexes employed by Bank when extending credit, and not necessarily the lowest rate. Any change in the interest rate resulting from a change in Bank's Prime Rate shall become effective as of the opening of business on the effective date of the change.

This Note is executed and delivered by Borrower in connection with the following agreements (if any) between Borrower or other parties owning collateral and Bank:

Texas Deed of Trust and Security Agreement granted in favor of Bank as beneficiary:

dated as of March 30, 2018 in the maximum principal amount of \$21,500,000.00, executed by Borrower (as at any time amended, restated, supplemented or otherwise modified, the "Deed of Trust")

Assignment of Leases and Rents granted in favor of Bank as assignee:

dated as of March 30, 2018, executed by Borrower

Security Agreement dated September 28, 2017, given by Borrower, as amended by that certain First Amendment to Loan Agreement and First Amendment to Security Agreement dated of even date herewith, executed by Borrower.

Securities Account Pledge and Security Agreement dated \_\_\_\_\_, executed by \_\_\_\_\_.

Control Agreement(s) dated \_\_\_\_\_, covering  Deposit Account(s)  Investment Property  
 Letter of Credit Rights  Electronic Chattel Paper

Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificates of Deposit) dated \_\_\_\_\_, executed by \_\_\_\_\_.

Assignment of Deposit Account dated \_\_\_\_\_, executed by \_\_\_\_\_.

Pledge and Security Agreement for Publicly Traded Certificated Securities dated \_\_\_\_\_, executed by \_\_\_\_\_.

Assignment of Life Insurance Policy as Collateral dated \_\_\_\_\_, executed by \_\_\_\_\_.

Loan Agreement and Schedules, if any, dated September 28, 2017, executed by  Borrower and  Guarantor(s), as amended by that certain First Amendment to Loan Agreement and First Amendment to Security Agreement dated of even date herewith, executed by Borrower (and as at any time further amended, restated, supplemented or otherwise modified, the "Loan Agreement").

Trademark Security Agreement dated September 28, 2017, executed by Borrower.

Patent Security Agreement dated September 28, 2017, executed by Borrower.

All of the terms, conditions and covenants of the above described agreements (the "Agreements") are expressly made a part of this Note by reference in the same manner and with the same effect as if set forth herein at length, and Bank is entitled to the benefits of and remedies provided in the Agreements and any other related document given by Borrower, any guarantor or any pledgor in favor of Bank. In addition to Bank's right of setoff and to any liens and security interests granted to Bank in the Agreements, Borrower hereby grants to Bank a security interest in all of its deposit accounts maintained with Bank, which shall serve as collateral for the indebtedness and obligations evidenced by this Note.

Borrower agrees that the only interest charge is the interest actually stated in this Note, and that any loan or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under this Note, and such charges shall be fully earned and non-refundable when accrued. All other charges imposed by Bank upon Borrower in connection with this Note and the loan including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, reasonable attorneys' fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred or to be incurred by Bank in connection with this Note and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due. Time is of the essence of this Note.

No delay or omission on the part of Bank or other holder hereof in exercising any right hereunder shall operate as a waiver of such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or of any other right on any future occasion. Each Borrower regardless of the time, order or place of signing waives presentment, demand, protest and notices of every kind and assents to any one or more extensions or postponements of the time of payment or any other indulgences, to any substitutions, exchanges or releases of collateral by Bank, and to the additions or releases of any other parties or persons primarily or secondarily liable herefor.

Upon an Event of Default (as defined in the Loan Agreement), in addition to Bank's rights set forth in the Loan Agreement, Deed of Trust and other Loan Documents (as defined in the Loan Agreement), Bank may, at its option and subject to any applicable notice period (i) cease making advances or disbursements; (ii) advance funds necessary to remedy any default or pay any lien filed against any of the collateral; (iii) take possession of the collateral or any part thereof; (iv) foreclose Bank's security interest and/or lien on any collateral in accordance with applicable law; (v) make demand upon any or all guarantors; and (vi) exercise any other right or remedy which Bank has under this Note or any related documents or which is otherwise available at law or in equity. All of Bank's rights and remedies shall be cumulative and may be exercised singularly or concurrently. Any election by Bank to pursue any remedy shall not exclude the right to pursue any other remedy unless expressly prohibited by law, and any election by Bank to make expenditures or to take action to perform an obligation of Borrower, or of any Obligor, shall not affect Bank's right to declare a default and exercise its rights and remedies. In addition, upon default, Bank may pursue its full legal remedies under the Agreements and other remedies at law or equity, and the balance due hereunder may be charged against any obligation of Bank to any party including any Obligor.

From and after any Event of Default, interest shall accrue on the sum of the principal balance then outstanding at the rate of fifteen percent (15.0%) per annum ("Default Rate") until such principal and interest have been paid in full, provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of Texas; and further provided that such rate shall apply after judgment. If this Note is placed with an attorney for collection, Borrower agrees to pay, in addition to principal, interest, and late fees, if any, all costs of collection, including but not limited to all reasonable attorneys' fees incurred by Bank, whether or not there is a lawsuit, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any court costs.

To the maximum extent permitted by applicable law, Borrower hereby waives all rights, remedies, claims, and defenses based upon or related to Sections 51.003, 51.004, and 51.005 of the Texas Property Code, to the extent the same pertain or may pertain to any enforcement of this Note.

Unless otherwise required under the Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Note remains outstanding or as long as Bank remains obligated to make advances, each Borrower shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of Bank.

All obligations of Borrower shall bind his heirs, executors, administrators, successors, and/or assigns. Use of the masculine pronoun herein shall include the feminine and the neuter, and also the plural. If more than one party shall execute this Note, the term "Borrower" as used herein shall mean all the parties signing this Note and each of them, and all such parties shall be jointly and severally obligated hereunder. Wherever possible, each provision of this Note shall be interpreted in such a manner to be effective and valid under applicable law, but if any provision of this Note shall be prohibited by or invalid under such law, such provision shall be ineffective but only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note. Each Borrower hereby waives all exemptions and homestead laws. The proceeds of the loan evidenced by this Note may be paid to any Borrower. This Note may be executed in any number of counterparts, each of which shall be an original but all of which taken together shall constitute one and the same instrument.

From time to time the maturity date of this Note may be extended, or this Note may be renewed in whole or in part, or a new note of different form may be substituted for this Note, or the rate of interest may be modified, or changes may be made in consideration of loan extensions, and Bank may, from time to time, waive or surrender, either in whole or in part any rights, guaranties, security interests or liens, given for the benefit of Bank in connection with the payment and the securing of payment of this Note; but no such occurrence shall in any manner affect, limit, modify, or otherwise impair any rights, guaranties or security of Bank not specifically waived, released, or surrendered in writing, nor shall Borrower or any Obligor be released from liability by reason of the occurrence of any such event. Bank, from time to time, shall have the unlimited right to release any person who might be liable hereunder, and such release shall not affect or discharge the liability of any other person who is or might be liable hereunder. No waivers and modifications shall be valid unless in writing and signed by Bank. Bank may, at its option, charge any reasonable fees for the modification, renewal, extension, or amendment of any of the terms of this Note not prohibited by applicable law. In case of a conflict between the terms of this Note and any Loan Agreement executed in connection herewith, the priority of controlling terms shall be first this Note, then the Loan Agreement. This Note shall be governed by and construed in accordance with the laws of the State of Texas.

Any legal action with respect to the indebtedness evidenced by this Note may be brought in the courts of the State of Texas and County of Harris or in the appropriate United States District Court situated in Texas, and Borrower hereby accepts and unconditionally submits to the jurisdiction of such courts. Borrower hereby waives any objection to the laying of venue based on the grounds of forum non conveniens with respect thereto.

**REQUIRED INFORMATION FOR A NEW LOAN.** To help the government fight the funding of terrorism and money laundering activities, federal law requires Bank to obtain, verify and record information that identifies each person or entity obtaining a loan including Borrower's legal name, address, tax identification number, date of birth, driver's license, organizational documents or other identifying documents. Failure to provide the required information will result in a violation of the U.S. Patriot Act and will constitute a default under this instrument. In addition, no Borrower, any of its affiliates, or any of their respective directors, officers, managers, partners, or any other authorized representatives is named as a "Specially Designated National and Blocked Person", on the list published by the U.S. Department of the Treasury Office of Foreign Assets Control (OFAC) at its official website.

**UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, BORROWER AND BANK HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS NOTE, ANY OF THE LOAN DOCUMENTS EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN BORROWER AND BANK, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. BORROWER AND BANK AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT BORROWER OR BANK MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF BANK AND BORROWER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN AND BORROWER TO ENTER INTO THIS AGREEMENT. FURTHER, BORROWER HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION. BORROWER AND BANK EACH ACKNOWLEDGE THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS PARAGRAPH, THAT IT FULLY UNDERSTANDS ITS TERMS, CONTENT AND EFFECT, AND THAT IT VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS PARAGRAPH.**

(SIGNATURES ON FOLLOWING PAGE)

# BB&T

## PROMISSORY NOTE SIGNATURE PAGE

Borrower: Applied Optoelectronics, Inc.  
Account Number: 9700029240  
Note Amount: \$26,000,000.00

Note Number: 00005  
Date: March 30, 2018

IN WITNESS WHEREOF, Borrower, on the day and year first written above, has executed, or caused this Note to be executed by its authorized officer or representative. Borrower acknowledges receipt of a completed copy of this Note.

APPLIED OPTOELECTRONICS, INC.

\_\_\_\_\_  
Name of Corporation

WITNESS:

\_\_\_\_\_  
Print Name:

By:

Name:  
Title:

\_\_\_\_\_  
**Stefan Murry**  
Chief Financial officer

\_\_\_\_\_  
Print Name:

By:

Name:  
Title:

\_\_\_\_\_  
**David Kuo**  
Vice President, General Counsel and Secretary

# BB&T

## ADDENDUM TO PROMISSORY NOTE

BB&T Account No. 9700029240

THIS ADDENDUM TO PROMISSORY NOTE (“Addendum”) is hereby made a part of the Promissory Note dated as of March 30, 2018, from **APPLIED OPTOELECTRONICS, INC.** (“Borrower”) payable to the order of **BRANCH BANKING AND TRUST COMPANY** (“Bank”) in the principal amount of \$26,000,000.00 (including all renewals, extensions, modifications and substitutions thereof, the “Note”).

### I. DEFINITIONS.

1.1 **Adjusted LIBOR Rate** means a rate of interest per annum, which shall be adjusted monthly on the first day of each LIBOR Interest Period, equal to the sum obtained (rounded upwards, if necessary, to the next higher 1/16th of 1.0%) by adding (i) the One Month LIBOR plus (ii) the Applicable Margin. The Adjusted LIBOR Rate shall be adjusted for any change in the LIBOR Reserve Percentage so that Bank shall receive the same yield. The interest rate will in no instance exceed the maximum rate permitted by applicable law and if checked here  the interest rate will not decrease below a fixed minimum rate of \_\_\_\_%. If checked here  the interest rate will not exceed a fixed maximum rate of \_\_\_\_% or  an average maximum rate of \_\_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Note is repaid in full by Borrower or  annually beginning on \_\_\_\_\_. If the loan has been repaid prior to this date, no reimbursement will be made.

1.2 **Applicable Margin** means the margin set forth below, as determined by Borrower’s ratio of Funded Debt to EBITDA (in each case, as defined in that certain Loan Agreement dated September 28, 2017, between Borrower and Bank (as at any time amended, restated, supplemented or otherwise modified, the “Loan Agreement”):

| <u>Level</u> | <u>Funded Debt to EBITDA Ratio</u> | <u>CapEx Loan Margin</u> |
|--------------|------------------------------------|--------------------------|
| I            | < 1.0 to 1.0                       | 1.30%                    |
| II           | ≥ 1.0 to 1                         | 1.50%                    |
|              | ≤ 2.0 to 1.0                       |                          |
| III          | > 2.0 to 1.0                       | 2.00%                    |

Until April 30, 2018, the margin shall be determined as if Level I were applicable. Thereafter, the margin shall be subject to increase or decrease by Bank on the first day of each LIBOR Interest Period. If Bank is unable to calculate the Funded Debt to EBITDA ratio for a fiscal quarter due to Borrower’s failure to deliver any financial statements when required under the Loan Agreement, then, at the option of Bank, the margin shall be determined as if Level III were applicable until the first day of the calendar month following its receipt of such financial statements. If, for any reason (including inaccurate reporting by Borrower), 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 Borrower shall immediately pay to Bank 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. If, for any reason (excluding inaccurate reporting by Borrower and any other reason attributable to Borrower), it is determined that a lower Applicable Margin should have applied to the most recent fiscal quarter then ending than was actually applied, then the proper margin shall be applied retroactively (solely with respect to such most recent fiscal quarter then ending) and Borrower may credit against its next payment an amount equal to the difference between the amount of interest and fees that would have accrued during such most recent fiscal quarter then ending using the proper margin and the amount actually paid during such most recent fiscal quarter then ending.

1.3 **Business Day** means a day other than a Saturday, Sunday, legal holiday or any other day when the Bank is authorized or required by applicable law to be closed.

1.4 **LIBOR Advance** means the advances made by Bank to Borrower evidenced by this Note upon which the Adjusted LIBOR Rate of interest shall apply.

1.5 **LIBOR Interest Period** means the period, as may be elected by the Borrower applicable to any LIBOR Advance, commencing on the date the Note is first made (or the date of any subsequent LIBOR addendum to the Note) and (i) if adjusted monthly, ending on the day that is immediately prior to the numerically corresponding day of each month thereafter or (ii) if adjusted quarterly, ending on the day that is immediately prior to the numerically corresponding day of each quarter thereafter; provided that:

(a) any LIBOR Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such LIBOR Interest Period shall end on the next preceding Business Day; and

(b) any LIBOR Interest Period which begins on a day for which there is no numerically corresponding day in a subsequent month if adjusted monthly or in a subsequent quarter if adjusted quarterly, shall end on the last Business Day of each subsequent month if adjusted monthly or on the last Business Day of each subsequent quarter if adjusted quarterly.

1.6 **LIBOR Reserve Percentage** means the maximum aggregate rate at which reserves (including, without limitation, any marginal supplemental or emergency reserves) are required to be maintained under Regulation D by member banks of the Federal Reserve System with respect to dollar funding in the London interbank market. Without limiting the effect of the foregoing, the LIBOR Reserve Percentage shall reflect any other reserves required to be maintained by such member banks by reason of any applicable regulatory change against (i) any category of liability which includes deposits by reference to which the Adjusted LIBOR Rate is to be determined or (ii) any category of extensions of credit or other assets related to LIBOR.

1.7 **One Month LIBOR** means the average rate quoted by Bloomberg Finance L.P., or any quoting service or commonly available source utilized by the Bank, on the determination date for deposits in U. S. Dollars offered in the London interbank market for one month determined at approximately 11:00 am London time two (2) Business Days prior to the commencement of the applicable LIBOR Interest Period; provided that if the above method for determining one month LIBOR shall not be available, the rate quoted in *The Wall Street Journal*, or a rate determined by a substitute method of determination agreed on by Borrower and Bank; provided, if such agreement is not reached within a reasonable period of time (in Bank's reasonable judgment), a rate reasonably determined by Bank in its sole discretion as a rate being paid, as of the determination date, by first class banking organizations (as determined by Bank) in the London interbank market for U. S. Dollar deposits; and provided further that if One Month LIBOR determined as provided above would be less than zero percent (0%), then One Month LIBOR shall be deemed to be zero percent (0%).

1.8 **Standard Rate** means, for any day, a rate per annum equal to the Prime Rate Equivalent (as defined in the Loan Agreement), and each change in the Standard Rate shall be effective on the date any change in the Prime Rate is publicly announced as being effective.

## II. LOAN BEARING ADJUSTED LIBOR RATE

2.1 Application of Adjusted LIBOR Rate. The Adjusted LIBOR Rate shall apply to the entire principal balance outstanding of a LIBOR Advance for any LIBOR Interest Period.

### 2.2 Adjusted LIBOR Based Rate Protections.

(a) Inability to Determine Rate. In the event that Bank shall have determined, which determination shall be final, conclusive and binding, that by reason of circumstances occurring after the date of this Note affecting the London interbank market, adequate and fair means do not exist for ascertaining the One Month LIBOR on the basis provided for in this Note, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination, whereupon (i) no LIBOR Advance shall be made until Bank notifies Borrower that the circumstances giving rise to such notice no longer exist, and (ii) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

(b) Illegality; Impracticability. In the event that Bank shall determine, which determination shall be final, conclusive and binding, that the making, maintaining or continuance of any portion of a LIBOR Advance (i) has become unlawful as a result of compliance by Bank with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any of the same not having the force of law even though the failure to comply therewith would not be unlawful) or (ii) has become impracticable, or would cause Bank material hardship, as a result of contingencies occurring after the date of this Note materially and adversely affect the London interbank market or Bank's ability to make LIBOR Advances generally, then, and in any such event, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination. Thereafter, (x) the obligation of Bank to make any LIBOR Advances or to convert any portion of the loan to a LIBOR Advance shall be suspended until such notice shall be withdrawn by Bank, and (y) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

APPLIED OPTOELECTRONICS, INC.

\_\_\_\_\_  
Name of Corporation

WITNESS:

\_\_\_\_\_  
Print Name:

By: \_\_\_\_\_

Name: **Stefan Murry**  
Title: Chief Financial officer

\_\_\_\_\_  
Print Name:

By: \_\_\_\_\_

Name: **David Kuo**  
Title: Vice President, General Counsel and Secretary

**EXHIBIT D**

Resolutions

(See attached.)

**SECRETARY'S CERTIFICATE  
OF  
BOARD OF DIRECTORS RESOLUTIONS**

I, David Kuo, DO HEREBY CERTIFY, that I am the Vice President, General Counsel and Secretary of **APPLIED OPTOELECTRONICS, INC.** (the "Corporation"), a corporation duly organized and existing under the laws of the State of Delaware, and am keeper of the records and seal thereof; that the following is a true, correct and complete copy of the resolutions duly adopted by the unanimous consent of all members of the Board of Directors of said Corporation effective as of March 30, 2018; and that said resolutions are still in full force and effect:

RESOLVED, that the Chairman of the Board, President, Chief Executive Officer, Chief Financial Officer, any Vice President, Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, General Counsel and any other officer or board member of this Corporation (or the designee of any of them), each be, and each hereby is, authorized and empowered (either alone or in conjunction with any one or more of the other officers of the Corporation) to take, from time to time, all or any part of the following actions on or in behalf of the Corporation: (i) to make, execute and deliver to **BRANCH BANKING AND TRUST** ("Bank") (1) a First Amendment to Loan Agreement and First Amendment to Security Agreement (the "Amendment") providing for the amendment of certain terms of that certain Loan Agreement dated September 28, 2017, between the Corporation and Bank (as at any time amended, the "Loan Agreement"), and that certain Security Agreement dated September 28, 2017, between the Corporation and Bank (as at any time amended, the "Security Agreement"), (2) a Texas Deed of Trust and Security Agreement (as at any time amended, the "Deed of Trust"), (3) an Assignment of Leases and Rents (as at any time amended, the "Assignment"), and (4) all other agreements, documents and instruments contemplated by or referred to in the Amendment, the Deed of Trust and the Assignment or executed by the Corporation in connection therewith; said Amendment and other agreements, documents and instruments to be substantially in the form presented by Bank with such additional, modified or revised terms as may be acceptable to any officer or director of the Corporation, as conclusively evidenced by his or her execution thereof; and (ii) to carry out, modify, amend or terminate any arrangements or agreements at any time existing between the Corporation and Bank.

RESOLVED, that any arrangements, agreements, security agreements, or other instruments or documents referred to in or executed pursuant to the Amendment by Dr. Stefan Murry, David Kuo, Fred Chang, any other officer or director of the Corporation, or by an employee of the Corporation acting pursuant to delegation of authority, may be attested by such person and may contain such terms and provisions as such person shall, in his or her sole discretion, determine.

RESOLVED, that the Loan Agreement and each amendment to the Loan Agreement, and the Security Agreement and each amendment to the Security Agreement, heretofore executed by any officer or director of the Corporation and any actions taken under the Loan Agreement and the Security Agreement as thereby amended are hereby ratified and approved.

I DO FURTHER CERTIFY that Dr. Stefan Murry is the Chief Financial Officer of the Corporation, David Kuo is the Vice President, General Counsel and Secretary of the Corporation and Fred Chang is the Senior Vice President of the Corporation and each is duly elected, qualified and acting as such, respectively.

I DO FURTHER CERTIFY that the Corporation's Amended and Restated Certificate of Incorporation and By-Laws certified to Bank on September 28, 2017, have not been amended, supplemented or otherwise modified in any manner since such date and remain in full force and effect as of the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the Corporation this 30<sup>th</sup> day of March, 2018.

/s/ David Kuo  
**David Kuo**, Vice President, General Counsel  
and Secretary

I, Dr. Stefan Murry, Chief Financial Officer of said Corporation, do hereby certify that the foregoing is a correct copy of the resolutions passed by the Board of Directors of the Corporation and that David Kuo is Vice President, General Counsel and Secretary of the Corporation and is duly authorized to attest to the passage of said resolutions.

/s/ Stefan Murry  
**Stefan Murry**, Chief Financial Officer

# BB&T

## ADDENDUM TO PROMISSORY NOTE

BB&T Account No. 9700029240

THIS ADDENDUM TO PROMISSORY NOTE (“Addendum”) is hereby made a part of the Note Modification Agreement dated as of March 30, 2018, from **APPLIED OPTOELECTRONICS, INC.** (“Borrower”) payable to the order of **BRANCH BANKING AND TRUST COMPANY** (“Bank”) in the principal amount of \$60,000,000.00, which Note Modification Agreement amends that certain Promissory Note dated September 28, 2017 (including all renewals, extensions, modifications and substitutions thereof, the “Note”).

### I. DEFINITIONS.

1.1 **Adjusted LIBOR Rate** means a rate of interest per annum, which shall be adjusted monthly on the first day of each LIBOR Interest Period, equal to the sum obtained (rounded upwards, if necessary, to the next higher 1/16<sup>th</sup> of 1.0%) by adding (i) the One Month LIBOR plus (ii) the Applicable Margin. The Adjusted LIBOR Rate shall be adjusted for any change in the LIBOR Reserve Percentage so that Bank shall receive the same yield. The interest rate will in no instance exceed the maximum rate permitted by applicable law and if checked here  the interest rate will not decrease below a fixed minimum rate of \_\_\_\_%. If checked here  the interest rate will not exceed  a fixed maximum rate of \_\_\_\_% or  an average maximum rate of \_\_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Note is repaid in full by Borrower or  annually beginning on \_\_\_\_\_. If the loan has been repaid prior to this date, no reimbursement will be made.

1.2 **Applicable Margin** means the margin set forth below, as determined by Borrower’s ratio of Funded Debt to EBITDA (in each case, as defined in that certain Loan Agreement dated September 28, 2017, between Borrower and Bank (as at any time amended, restated, supplemented or otherwise modified, the “Loan Agreement”):

| <u>Level</u> | <u>Funded Debt to EBITDA Ratio</u> | <u>Line of Credit Margin</u> |
|--------------|------------------------------------|------------------------------|
| I            | < 1.0 to 1.0                       | 1.40%                        |
| II           | ≥ 1.0 to 1<br>≤ 2.0 to 1.0         | 1.50%                        |
| III          | > 2.0 to 1.0                       | 2.00%                        |

Until April 30, 2018, the margin shall be determined as if Level I were applicable. Thereafter, the margin shall be subject to increase or decrease by Bank on the first day of each LIBOR Interest Period. If Bank is unable to calculate the Funded Debt to EBITDA ratio for a fiscal quarter due to Borrower’s failure to deliver any financial statements when required under the Loan Agreement, then, at the option of Bank, the margin shall be determined as if Level III were applicable until the first day of the calendar month following its receipt of such financial statements. If, for any reason (including inaccurate reporting by Borrower), 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 Borrower shall immediately pay to Bank 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. If, for any reason (excluding inaccurate reporting by Borrower and any other reason attributable to Borrower), it is determined that a lower Applicable Margin should have applied to the most recent fiscal quarter then ending than was actually applied, then the proper margin shall be applied retroactively (solely with respect to such most recent fiscal quarter then ending) and Borrower may credit against its next payment an amount equal to the difference between the amount of interest and fees that would have accrued during such most recent fiscal quarter then ending using the proper margin and the amount actually paid during such most recent fiscal quarter then ending.

1.3 **Business Day** means a day other than a Saturday, Sunday, legal holiday or any other day when the Bank is authorized or required by applicable law to be closed.

1.4 **LIBOR Advance** means the advances made by Bank to Borrower evidenced by this Note upon which the Adjusted LIBOR Rate of interest shall apply.

1.5 **LIBOR Interest Period** means the period, as may be elected by the Borrower applicable to any LIBOR Advance, commencing on the date the Note is first made (or the date of any subsequent LIBOR addendum to the Note) and (i) if adjusted monthly, ending on the day that is immediately prior to the numerically corresponding day of each month thereafter or (ii) if adjusted quarterly, ending on the day that is immediately prior to the numerically corresponding day of each quarter thereafter; provided that:

(a) any LIBOR Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such LIBOR Interest Period shall end on the next preceding Business Day; and

(b) any LIBOR Interest Period which begins on a day for which there is no numerically corresponding day in a subsequent month if adjusted monthly or in a subsequent quarter if adjusted quarterly, shall end on the last Business Day of each subsequent month if adjusted monthly or on the last Business Day of each subsequent quarter if adjusted quarterly.

1.6 **LIBOR Reserve Percentage** means the maximum aggregate rate at which reserves (including, without limitation, any marginal supplemental or emergency reserves) are required to be maintained under Regulation D by member banks of the Federal Reserve System with respect to dollar funding in the London interbank market. Without limiting the effect of the foregoing, the LIBOR Reserve Percentage shall reflect any other reserves required to be maintained by such member banks by reason of any applicable regulatory change against (i) any category of liability which includes deposits by reference to which the Adjusted LIBOR Rate is to be determined or (ii) any category of extensions of credit or other assets related to LIBOR.

1.7 **One Month LIBOR** means the average rate quoted by Bloomberg Finance L.P., or any quoting service or commonly available source utilized by the Bank, on the determination date for deposits in U. S. Dollars offered in the London interbank market for one month determined at approximately 11:00 am London time two (2) Business Days prior to the commencement of the applicable LIBOR Interest Period; provided that if the above method for determining one month LIBOR shall not be available, the rate quoted in *The Wall Street Journal*, or a rate determined by a substitute method of determination agreed on by Borrower and Bank; provided, if such agreement is not reached within a reasonable period of time (in Bank's reasonable judgment), a rate reasonably determined by Bank in its sole discretion as a rate being paid, as of the determination date, by first class banking organizations (as determined by Bank) in the London interbank market for U. S. Dollar deposits; and provided further that if One Month LIBOR determined as provided above would be less than zero percent (0%), then One Month LIBOR shall be deemed to be zero percent (0%).

1.8 **Standard Rate** means, for any day, a rate per annum equal to the Prime Rate Equivalent (as defined in the Loan Agreement), and each change in the Standard Rate shall be effective on the date any change in the Prime Rate is publicly announced as being effective.

## II. LOAN BEARING ADJUSTED LIBOR RATE

2.1 Application of Adjusted LIBOR Rate. The Adjusted LIBOR Rate shall apply to the entire principal balance outstanding of a LIBOR Advance for any LIBOR Interest Period.

### 2.2 Adjusted LIBOR Based Rate Protections.

(a) Inability to Determine Rate. In the event that Bank shall have determined, which determination shall be final, conclusive and binding, that by reason of circumstances occurring after the date of this Note affecting the London interbank market, adequate and fair means do not exist for ascertaining the One Month LIBOR on the basis provided for in this Note, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination, whereupon (i) no LIBOR Advance shall be made until Bank notifies Borrower that the circumstances giving rise to such notice no longer exist, and (ii) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

(b) Illegality; Impracticability. In the event that Bank shall determine, which determination shall be final, conclusive and binding, that the making, maintaining or continuance of any portion of a LIBOR Advance (i) has become unlawful as a result of compliance by Bank with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any of the same not having the force of law even though the failure to comply therewith would not be unlawful) or (ii) has become impracticable, or would cause Bank material hardship, as a result of contingencies occurring after the date of this Note materially and adversely affect the London interbank market or Bank's ability to make LIBOR Advances generally, then, and in any such event, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination. Thereafter, (x) the obligation of Bank to make any LIBOR Advances or to convert any portion of the loan to a LIBOR Advance shall be suspended until such notice shall be withdrawn by Bank, and (y) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

WITNESS:

/s/ Jerry K. Hu  
Print Name:  
Jerry K. Hu

/s/ Jerry K. Hu  
Print Name:  
Jerry K. Hu

APPLIED OPTOELECTRONICS, INC.  
\_\_\_\_\_  
Name of Corporation

By: /s/ Stefan Murry  
Name: Stefan Murry  
Title: Chief Financial Officer

By: /s/ David Kuo  
Name: David Kuo  
Title: Vice President, General Counsel and Secretary

**Exhibit 10.3**

Borrower: Applied Optoelectronics, Inc.

Account

Number: 9700029240

Address: 13139 Jess Pirtle Blvd

Sugar Land, Texas 77478

**BB&T**  
**PROMISSORY NOTE**

Note

Number: 00005

Sugar Land                     , Texas

Date: March 30, 2018

**APPLIED OPTOELECTRONICS, INC.** (whether one or more, the “Borrower”) HEREBY REPRESENTS THAT THE LOAN EVIDENCED BY THIS PROMISSORY NOTE (“Note”) IS BEING OBTAINED FOR BUSINESS/COMMERCIAL OR AGRICULTURAL PURPOSES AND NOT FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES. For value received, Borrower, jointly and severally if more than one, promises to pay to **BRANCH BANKING AND TRUST COMPANY**, a North Carolina banking corporation (including its successors and assigns, hereinafter referred to as “Bank”), or order, at any of Bank’s offices in the above referenced city (or such other place or places that may be hereafter designated by Bank), the sum of Twenty-Six Million and no/100 Dollars (\$26,000,000.00), or such lesser amount outstanding at maturity, in immediately available currency of the United States of America.

Borrower shall pay a prepayment fee as set forth in the Prepayment Fee Addendum attached to this Note.

**Interest shall accrue from the date hereof on the unpaid balance outstanding from time to time at the:**

- Fixed rate of \_\_\_% per annum.
- Variable rate of Bank’s Prime Rate plus \_\_\_ % per annum to be adjusted \_\_\_ as Bank’s Prime Rate changes. If checked here , the interest rate will not exceed a(n)  fixed  average maximum rate of \_\_\_% or a  floating maximum rate of the greater of \_\_\_% or Bank’s Prime Rate; and the interest rate will not decrease below a fixed minimum rate of \_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Note is repaid in full by Borrower  annually beginning on \_\_\_.
- Fixed rate of \_\_\_ % per annum through \_\_\_ which automatically converts on \_\_\_ to a variable rate equal to Bank’s Prime Rate plus \_\_\_ % per annum which shall be adjusted \_\_\_ as such Prime Rate changes.
- The Adjusted LIBOR Rate as more specifically described in the Addendum to Note attached hereto.

**Principal and interest on each CapEx Loan Advance (as defined in the Loan Agreement, as hereinafter defined) are payable as follows:**

- Principal (plus any accrued interest not otherwise scheduled herein) is due in full at maturity on \_\_\_.
- Payable in consecutive monthly installments of  Principal  Principal plus Interest commencing on the one-month anniversary of such CapEx Loan Advance, and continued on the same day of each calendar period thereafter, in fifty-nine (59) equal payments, each in an amount equal to 1/59th of the aggregate amount of such CapEx Loan Advance, with one final payment of all remaining principal and accrued interest due on the fifth (5th) anniversary of such CapEx Loan Advance.
- Accrued interest is payable \_\_\_ commencing on \_\_\_ and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on \_\_\_.
- Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder with respect to such CapEx Loan Advance monthly on the one-month anniversary of such CapEx Loan Advance and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than sixty (60) months from the date of this Note. Borrower understands the payment may increase if interest rates increase.
- This Note evidences a revolving line of credit and advances under this Note, as well as directions for payment from Borrower’s accounts, may be requested orally or in writing by Borrower. Bank may, but need not, require that all oral requests be confirmed in writing. Borrower agrees to be liable for all sums either (i) advanced in accordance with the instructions of an authorized person or (ii) credited to any of Borrower’s accounts maintained with Bank. Prior to an Event of Default (as defined in the Loan Agreement), Borrower may borrow, repay, and reborrow hereunder pursuant to the terms of the Loan Agreement, if any, as hereinafter defined.
- Borrower hereby authorizes Bank to automatically draft from its demand, deposit, or savings account(s) maintained with Bank or another bank, any payment(s) including late fees and other fees and charges due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or another bank.
- \_\_\_\_\_

Borrower shall pay to Bank, or order, a late fee in the amount of five percent (5.0%) of any installment past due for ten (10) or more days after written notice is received by Borrower regarding same. When any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, Borrower shall pay to Bank a returned payment fee (currently \$25.00) if Borrower or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to nonsufficient funds. **Bank shall not be obligated to accept any check, money order, or other payment instrument marked “payment in full” on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless such payment is in fact sufficient to pay the amount due hereunder.**

All interest shall be computed and charged for the actual number of days elapsed on the basis of a year consisting of three hundred sixty (360) days. In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased, or additional supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in Bank's sole discretion), in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as Bank's Prime Rate or the One Month LIBOR; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount.

The term "Prime Rate," if used herein, means the rate of interest per annum announced by Bank from time to time and adopted as its Prime Rate at its executive offices in Winston-Salem, North Carolina. The Prime Rate is one of several rate indexes employed by Bank when extending credit, and not necessarily the lowest rate. Any change in the interest rate resulting from a change in Bank's Prime Rate shall become effective as of the opening of business on the effective date of the change.

This Note is executed and delivered by Borrower in connection with the following agreements (if any) between Borrower or other parties owning collateral and Bank:

Texas Deed of Trust and Security Agreement granted in favor of Bank as beneficiary:

dated as of March 30, 2018 in the maximum principal amount of \$21,500,000.00, executed by Borrower (as at any time amended, restated, supplemented or otherwise modified, the "Deed of Trust")

Assignment of Leases and Rents granted in favor of Bank as assignee:

dated as of March 30, 2018, executed by Borrower

Security Agreement dated September 28, 2017, executed by Borrower, as amended by that certain First Amendment to Loan Agreement and First Amendment to Security Agreement dated of even date herewith, executed by Borrower.

Securities Account Pledge and Security Agreement dated \_\_\_, executed by \_\_\_.

Control Agreement(s) dated \_\_\_, covering  Deposit Account(s)  Investment Property  Letter of Credit Rights  Electronic Chattel Paper

Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificates of Deposit) dated \_\_\_, executed by \_\_\_.

Assignment of Deposit Account dated \_\_\_, executed by \_\_\_.

Pledge and Security Agreement for Publicly Traded Certificated Securities dated \_\_\_, executed by \_\_\_.

Assignment of Life Insurance Policy as Collateral dated \_\_\_, executed by \_\_\_.

Loan Agreement and Schedules, if any, dated September 28, 2017, executed by  Borrower and  Guarantor(s), as amended by that certain First Amendment to Loan Agreement and First Amendment to Security Agreement dated of even date herewith, executed by Borrower (and as at any time further amended, restated, supplemented or otherwise modified, the "Loan Agreement").

Trademark Security Agreement dated September 28, 2017, executed by Borrower.

Patent Security Agreement dated September 28, 2017, executed by Borrower.

All of the terms, conditions and covenants of the above described agreements (the "Agreements") are expressly made a part of this Note by reference in the same manner and with the same effect as if set forth herein at length, and Bank is entitled to the benefits of and remedies provided in the Agreements and any other related document given by Borrower, any guarantor or any pledgor in favor of Bank. In addition to Bank's right of setoff and to any liens and security interests granted to Bank in the Agreements, Borrower hereby grants to Bank a security interest in all of its deposit accounts maintained with Bank, which shall serve as collateral for the indebtedness and obligations evidenced by this Note.

Borrower agrees that the only interest charge is the interest actually stated in this Note, and that any loan or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under this Note, and such charges shall be fully earned and non-refundable when accrued. All other charges imposed by Bank upon Borrower in connection with this Note and the loan including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, reasonable attorneys' fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred or to be incurred by Bank in connection with this Note and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due. Time is of the essence of this Note.

No delay or omission on the part of Bank or other holder hereof in exercising any right hereunder shall operate as a waiver of such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or of any other right on any future occasion. Each Borrower regardless of the time, order or place of signing waives presentment, demand, protest and notices of every kind and assents to any one or more extensions or postponements of the time of payment or any other indulgences, to any substitutions, exchanges or releases of collateral by Bank, and to the additions or releases of any other parties or persons primarily or secondarily liable herefor.

Upon an Event of Default (as defined in the Loan Agreement), in addition to Bank's rights set forth in the Loan Agreement, Deed of Trust and other Loan Documents (as defined in the Loan Agreement), Bank may, at its option and subject to any applicable notice period (i) cease making advances or disbursements; (ii) advance funds necessary to remedy any default or pay any lien filed against any of the collateral; (iii) take possession of the collateral or any part thereof; (iv) foreclose Bank's security interest and/or lien on any collateral in accordance with applicable law; (v) make demand upon any or all guarantors; and (vi) exercise any other right or remedy which Bank has under this Note or any related documents or which is otherwise available at law or in equity. All of Bank's rights and remedies shall be cumulative and may be exercised singularly or concurrently. Any election by Bank to pursue any remedy shall not exclude the right to pursue any other remedy unless expressly prohibited by law, and any election by Bank to make expenditures or to take action to perform an obligation of Borrower, or of any Obligor, shall not affect Bank's right to declare a default and exercise its rights and remedies. In addition, upon default, Bank may pursue its full legal remedies under the Agreements and other remedies at law or equity, and the balance due hereunder may be charged against any obligation of Bank to any party including any Obligor.

From and after any Event of Default, interest shall accrue on the sum of the principal balance then outstanding at the rate of fifteen percent (15.0%) per annum ("Default Rate") until such principal and interest have been paid in full, provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of Texas; and further provided that such rate shall apply after judgment. If this Note is placed with an attorney for collection, Borrower agrees to pay, in addition to principal, interest, and late fees, if any, all costs of collection, including but not limited to all reasonable attorneys' fees incurred by Bank, whether or not there is a lawsuit, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any court costs.

To the maximum extent permitted by applicable law, Borrower hereby waives all rights, remedies, claims, and defenses based upon or related to Sections 51.003, 51.004, and 51.005 of the Texas Property Code, to the extent the same pertain or may pertain to any enforcement of this Note. Unless otherwise required under the Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Note remains outstanding or as long as Bank remains obligated to make advances, each Borrower shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of Bank.

All obligations of Borrower shall bind his heirs, executors, administrators, successors, and/or assigns. Use of the masculine pronoun herein shall include the feminine and the neuter, and also the plural. If more than one party shall execute this Note, the term "Borrower" as used herein shall mean all the parties signing this Note and each of them, and all such parties shall be jointly and severally obligated hereunder. Wherever possible, each provision of this Note shall be interpreted in such a manner to be effective and valid under applicable law, but if any provision of this Note shall be prohibited by or invalid under such law, such provision shall be ineffective but only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note. Each Borrower hereby waives all exemptions and homestead laws. The proceeds of the loan evidenced by this Note may be paid to any Borrower. This Note may be executed in any number of counterparts, each of which shall be an original but all of which taken together shall constitute one and the same instrument.

From time to time the maturity date of this Note may be extended, or this Note may be renewed in whole or in part, or a new note of different form may be substituted for this Note, or the rate of interest may be modified, or changes may be made in consideration of loan extensions, and Bank may, from time to time, waive or surrender, either in whole or in part any rights, guaranties, security interests or liens, given for the benefit of Bank in connection with the payment and the securing of payment of this Note; but no such occurrence shall in any manner affect, limit, modify, or otherwise impair any rights, guaranties or security of Bank not specifically waived, released, or surrendered in writing, nor shall Borrower or any Obligor be released from liability by reason of the occurrence of any such event. Bank, from time to time, shall have the unlimited right to release any person who might be liable hereunder, and such release shall not affect or discharge the liability of any other person who is or might be liable hereunder. No waivers and modifications shall be valid unless in writing and signed by Bank. Bank may, at its option, charge any reasonable fees for the modification, renewal, extension, or amendment of any of the terms of this Note not prohibited by applicable law. In case of a conflict between the terms of this Note and any Loan Agreement executed in connection herewith, the priority of controlling terms shall be first this Note, then the Loan Agreement. This Note shall be governed by and construed in accordance with the laws of the State of Texas.

Any legal action with respect to the indebtedness evidenced by this Note may be brought in the courts of the State of Texas and County of Harris or in the appropriate United States District Court situated in Texas, and Borrower hereby accepts and unconditionally submits to the jurisdiction of such courts. Borrower hereby waives any objection to the laying of venue based on the grounds of forum non conveniens with respect thereto.

**REQUIRED INFORMATION FOR A NEW LOAN.** To help the government fight the funding of terrorism and money laundering activities, federal law requires Bank to obtain, verify and record information that identifies each person or entity obtaining a loan including Borrower's legal name, address, tax identification number, date of birth, driver's license, organizational documents or other identifying documents. Failure to provide the required information will result in a violation of the U.S. Patriot Act and will constitute a default under this instrument. In addition, no Borrower, any of its affiliates, or any of their respective directors, officers, managers, partners, or any other authorized representatives is named as a "Specially Designated National and Blocked Person", on the list published by the U.S. Department of the Treasury Office of Foreign Assets Control (OFAC) at its official website.

**UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, BORROWER AND BANK HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS NOTE, ANY OF THE LOAN DOCUMENTS EXECUTED IN CONNECTION HEREWITH OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN BORROWER AND BANK, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. BORROWER AND BANK AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT BORROWER OR BANK MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF BANK AND BORROWER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN AND BORROWER TO ENTER INTO THIS AGREEMENT. FURTHER, BORROWER HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION. BORROWER AND BANK EACH ACKNOWLEDGE THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS PARAGRAPH, THAT IT FULLY UNDERSTANDS ITS TERMS, CONTENT AND EFFECT, AND THAT IT VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS PARAGRAPH.**

(SIGNATURES ON FOLLOWING PAGE)

# BB&T

## PROMISSORY NOTE SIGNATURE PAGE

Borrower: Applied Optoelectronics, Inc.

Account Number: 9700029240

Note Number: 00005

Note Amount: \$26,000,000.00

Date: March 30, 2018

IN WITNESS WHEREOF, Borrower, on the day and year first written above, has executed, or caused this Note to be executed by its authorized officer or representative. Borrower acknowledges receipt of a completed copy of this Note.

WITNESS:

/s/ Jerry K. Hu

Print Name:

Jerry K. Hu

/s/ Jerry K. Hu

Print Name:

Jerry K. Hu

APPLIED OPTOELECTRONICS, INC.

Name of Corporation

By: /s/ Stefan Murry

Name: Stefan Murry

Title: Chief Financial Officer

By: /s/ David Kuo

Name: David Kuo

Title: Vice President, General Counsel and Secretary

# BB&T

## ADDENDUM TO PROMISSORY NOTE

BB&T Account No. 9700029240

THIS ADDENDUM TO PROMISSORY NOTE ("Addendum") is hereby made a part of the Promissory Note dated as of March 30, 2018, from **APPLIED OPTOELECTRONICS, INC.** ("Borrower") payable to the order of **BRANCH BANKING AND TRUST COMPANY** ("Bank") in the principal amount of \$26,000,000.00 (including all renewals, extensions, modifications and substitutions thereof, the "Note").

### I. DEFINITIONS.

1.1 **Adjusted LIBOR Rate** means a rate of interest per annum, which shall be adjusted monthly on the first day of each LIBOR Interest Period, equal to the sum obtained (rounded upwards, if necessary, to the next higher 1/16<sup>th</sup> of 1.0%) by adding (i) the One Month LIBOR plus (ii) the Applicable Margin. The Adjusted LIBOR Rate shall be adjusted for any change in the LIBOR Reserve Percentage so that Bank shall receive the same yield. The interest rate will in no instance exceed the maximum rate permitted by applicable law and if checked here  the interest rate will not decrease below a fixed minimum rate of \_\_\_\_%. If checked here  the interest rate will not exceed ] a fixed maximum rate of \_\_\_\_% or  an average maximum rate of \_\_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Note is repaid in full by Borrower or  annually beginning on \_\_\_\_\_. If the loan has been repaid prior to this date, no reimbursement will be made.

1.2 **Applicable Margin** means the margin set forth below, as determined by Borrower's ratio of Funded Debt to EBITDA (in each case, as defined in that certain Loan Agreement dated September 28, 2017, between Borrower and Bank (as at any time amended, restated, supplemented or otherwise modified, the "Loan Agreement")):

| <u>Level</u> | <u>Funded Debt to EBITDA Ratio</u> | <u>CapEx Loan Margin</u> |
|--------------|------------------------------------|--------------------------|
| I            | < 1.0 to 1.0                       | 1.30%                    |
| II           | ≥ 1.0 to 1<br>≤ 2.0 to 1.0         | 1.50%                    |
| III          | > 2.0 to 1.0                       | 2.00%                    |

Until April 30, 2018, the margin shall be determined as if Level I were applicable. Thereafter, the margin shall be subject to increase or decrease by Bank on the first day of each LIBOR Interest Period. If Bank is unable to calculate the Funded Debt to EBITDA ratio for a fiscal quarter due to Borrower's failure to deliver any financial statements when required under the Loan Agreement, then, at the option of Bank, the margin shall be determined as if Level III were applicable until the first day of the calendar month following its receipt of such financial statements. If, for any reason (including inaccurate reporting by Borrower), 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 Borrower shall immediately pay to Bank 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. If, for any reason (excluding inaccurate reporting by Borrower and any other reason attributable to Borrower), it is determined that a lower Applicable Margin should have applied to the most recent fiscal quarter then ending than was actually applied, then the proper margin shall be applied retroactively (solely with respect to such most recent fiscal quarter then ending) and Borrower may credit against its next payment an amount equal to the difference between the amount of interest and fees that would have accrued during such most recent fiscal quarter then ending using the proper margin and the amount actually paid during such most recent fiscal quarter then ending.

1.3 **Business Day** means a day other than a Saturday, Sunday, legal holiday or any other day when the Bank is authorized or required by applicable law to be closed.

1.4 **LIBOR Advance** means the advances made by Bank to Borrower evidenced by this Note upon which the Adjusted LIBOR Rate of interest shall apply.

1.5 **LIBOR Interest Period** means the period, as may be elected by the Borrower applicable to any LIBOR Advance, commencing on the date the Note is first made (or the date of any subsequent LIBOR addendum to the Note) and (i) if adjusted monthly, ending on the day that is immediately prior to the numerically corresponding day of each month thereafter or (ii) if adjusted quarterly, ending on the day that is immediately prior to the numerically corresponding day of each quarter thereafter; provided that:

(a) any LIBOR Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such LIBOR Interest Period shall end on the next preceding Business Day; and

(b) any LIBOR Interest Period which begins on a day for which there is no numerically corresponding day in a subsequent month if adjusted monthly or in a subsequent quarter if adjusted quarterly, shall end on the last Business Day of each subsequent month if adjusted monthly or on the last Business Day of each subsequent quarter if adjusted quarterly.

1.6 **LIBOR Reserve Percentage** means the maximum aggregate rate at which reserves (including, without limitation, any marginal supplemental or emergency reserves) are required to be maintained under Regulation D by member banks of the Federal Reserve System with respect to dollar funding in the London interbank market. Without limiting the effect of the foregoing, the LIBOR Reserve Percentage shall reflect any other reserves required to be maintained by such member banks by reason of any applicable regulatory change against (i) any category of liability which includes deposits by reference to which the Adjusted LIBOR Rate is to be determined or (ii) any category of extensions of credit or other assets related to LIBOR.

1.7 **One Month LIBOR** means the average rate quoted by Bloomberg Finance L.P., or any quoting service or commonly available source utilized by the Bank, on the determination date for deposits in U. S. Dollars offered in the London interbank market for one month determined at approximately 11:00 am London time two (2) Business Days prior to the commencement of the applicable LIBOR Interest Period; provided that if the above method for determining one month LIBOR shall not be available, the rate quoted in *The Wall Street Journal*, or a rate determined by a substitute method of determination agreed on by Borrower and Bank; provided, if such agreement is not reached within a reasonable period of time (in Bank's reasonable judgment), a rate reasonably determined by Bank in its sole discretion as a rate being paid, as of the determination date, by first class banking organizations (as determined by Bank) in the London interbank market for U. S. Dollar deposits; and provided further that if One Month LIBOR determined as provided above would be less than zero percent (0%), then One Month LIBOR shall be deemed to be zero percent (0%).

1.8 **Standard Rate** means, for any day, a rate per annum equal to the Prime Rate Equivalent (as defined in the Loan Agreement), and each change in the Standard Rate shall be effective on the date any change in the Prime Rate is publicly announced as being effective.

## II. LOAN BEARING ADJUSTED LIBOR RATE

2.1 Application of Adjusted LIBOR Rate. The Adjusted LIBOR Rate shall apply to the entire principal balance outstanding of a LIBOR Advance for any LIBOR Interest Period.

### 2.2 Adjusted LIBOR Based Rate Protections.

(a) Inability to Determine Rate. In the event that Bank shall have determined, which determination shall be final, conclusive and binding, that by reason of circumstances occurring after the date of this Note affecting the London interbank market, adequate and fair means do not exist for ascertaining the One Month LIBOR on the basis provided for in this Note, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination, whereupon (i) no LIBOR Advance shall be made until Bank notifies Borrower that the circumstances giving rise to such notice no longer exist, and (ii) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

(b) Illegality; Impracticability. In the event that Bank shall determine, which determination shall be final, conclusive and binding, that the making, maintaining or continuance of any portion of a LIBOR Advance (i) has become unlawful as a result of compliance by Bank with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any of the same not having the force of law even though the failure to comply therewith would not be unlawful) or (ii) has become impracticable, or would cause Bank material hardship, as a result of contingencies occurring after the date of this Note materially and adversely affect the London interbank market or Bank's ability to make LIBOR Advances generally, then, and in any such event, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination. Thereafter, (x) the obligation of Bank to make any LIBOR Advances or to convert any portion of the loan to a LIBOR Advance shall be suspended until such notice shall be withdrawn by Bank, and (y) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

WITNESS:

/s/ Jerry K. Hu  
Print Name:  
Jerry K. Hu

/s/ Jerry K. Hu  
Print Name:  
Jerry K. Hu

APPLIED OPTOELECTRONICS, INC.  
\_\_\_\_\_  
Name of Corporation

By: /s/ Stefan Murry  
Name: Stefan Murry  
Title: Chief Financial Officer

By: /s/ David Kuo  
Name: David Kuo  
Title: Vice President, General Counsel and Secretary

**Exhibit 10.5**

Borrower: Applied Optoelectronics, Inc.

Account  
Number: 9700029240  
Address: 13139 Jess Pirtle Blvd  
Sugar Land, Texas 77478

**BB&T**  
**PROMISSORY NOTE**

Note  
Number: 00005  
Sugar Land, Texas  
Date: March 30, 2018

APPLIED OPTOELECTRONICS, INC. (whether one or more, the "Borrower") HEREBY REPRESENTS THAT THE LOAN EVIDENCED BY THIS PROMISSORY NOTE ("Note") IS BEING OBTAINED FOR BUSINESS/COMMERCIAL OR AGRICULTURAL PURPOSES AND NOT FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES. For value received, Borrower, jointly and severally if more than one, promises to pay to **BRANCH BANKING AND TRUST COMPANY**, a North Carolina banking corporation (including its successors and assigns, hereinafter referred to as "Bank"), or order, at any of Bank's offices in the above referenced city (or such other place or places that may be hereafter designated by Bank), the sum of Twenty-One Million Five Hundred Thousand and no/100 Dollars (\$21,500,000.00), or such lesser amount outstanding at maturity, in immediately available currency of the United States of America.

Borrower shall pay a prepayment fee as set forth in the Prepayment Fee Addendum attached to this Note.

**Interest shall accrue from the date hereof on the unpaid balance outstanding from time to time at the:**

- Fixed rate of \_\_\_% per annum.
- Variable rate of Bank's Prime Rate plus \_\_\_ % per annum to be adjusted \_\_\_ as Bank's Prime Rate changes. If checked here , the interest rate will not exceed a(n)  fixed  average maximum rate of \_\_\_% or a  floating maximum rate of the greater of \_\_\_% or Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of \_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Note is repaid in full by Borrower  annually beginning on \_\_\_.
- Fixed rate of \_\_\_ % per annum through \_\_\_ which automatically converts on \_\_\_ to a variable rate equal to Bank's Prime Rate plus \_\_\_ % per annum which shall be adjusted \_\_\_ as such Prime Rate changes.
- The Adjusted LIBOR Rate as more specifically described in the Addendum to Note attached hereto.

**Principal and interest are payable as follows:**

- Principal (plus any accrued interest not otherwise scheduled herein) is due in full at maturity on \_\_\_.
- Payable in consecutive monthly installments of  Principal  Principal plus Interest commencing on May 1, 2018, and continued on the same day of each calendar period thereafter, in seventy-one (71) equal principal payments of \$179,166.67, together with accrued interest, with one final payment of all remaining principal and accrued interest due on April 1, 2024.
- Accrued interest is payable \_\_\_ commencing on \_\_\_ and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on \_\_\_.
- Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder monthly on the first day of the calendar month and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than one hundred twenty (120) months from the date of this Note. Borrower understands the payment may increase if interest rates increase.
- This Note evidences a revolving line of credit and advances under this Note, as well as directions for payment from Borrower's accounts, may be requested orally or in writing by Borrower. Bank may, but need not, require that all oral requests be confirmed in writing. Borrower agrees to be liable for all sums either (i) advanced in accordance with the instructions of an authorized person or (ii) credited to any of Borrower's accounts maintained with Bank. Prior to an Event of Default (as defined in the Loan Agreement, as hereinafter defined), Borrower may borrow, repay, and reborrow hereunder pursuant to the terms of the Loan Agreement, if any, as hereinafter defined.
- Borrower hereby authorizes Bank to automatically draft from its demand, deposit, or savings account(s) maintained with Bank or another bank, any payment(s) including late fees and other fees and charges due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or another bank.
- \_\_\_\_\_

Borrower shall pay to Bank, or order, a late fee in the amount of five percent (5.0%) of any installment past due for ten (10) or more days after written notice is received by Borrower regarding same. When any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, Borrower shall pay to Bank a returned payment fee (currently \$25.00) if Borrower or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to nonsufficient funds. **Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless such payment is in fact sufficient to pay the amount due hereunder.**

All interest shall be computed and charged for the actual number of days elapsed on the basis of a year consisting of three hundred sixty (360) days. In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased, or additional supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in Bank's sole discretion), in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as Bank's Prime Rate or the One Month LIBOR; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount.

The term "Prime Rate," if used herein, means the rate of interest per annum announced by Bank from time to time and adopted as its Prime Rate at its executive offices in Winston-Salem, North Carolina. The Prime Rate is one of several rate indexes employed by Bank when extending credit, and not necessarily the lowest rate. Any change in the interest rate resulting from a change in Bank's Prime Rate shall become effective as of the opening of business on the effective date of the change.

This Note is executed and delivered by Borrower in connection with the following agreements (if any) between Borrower or other parties owning collateral and Bank:

Texas Deed of Trust and Security Agreement granted in favor of Bank as beneficiary:

- dated as of March 30, 2018 in the maximum principal amount of \$21,500,000.00, executed by Borrower (as at any time amended, restated, supplemented or otherwise modified, the "Deed of Trust")
- Assignment of Leases and Rents granted in favor of Bank as assignee:
  - dated as of March 30, 2018, executed by Borrower
- Security Agreement(s) granting a security interest to Bank:
  - dated September 28, 2017, given by Borrower, as amended by that certain First Amendment to Loan Agreement and First Amendment to Security Agreement dated of even date herewith, executed by Borrower.
  - dated , given by
  - Securities Account Pledge and Security Agreement dated \_\_\_, executed by \_\_\_.
  - Control Agreement(s) dated \_\_\_, covering  Deposit Account(s)  Investment Property  Letter of Credit Rights  Electronic Chattel Paper
  - Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificates of Deposit) dated \_\_\_, executed by \_\_\_.
  - Assignment of Deposit Account dated \_\_\_, executed by \_\_\_.
  - Pledge and Security Agreement for Publicly Traded Certificated Securities dated \_\_\_, executed by \_\_\_.
  - Assignment of Life Insurance Policy as Collateral dated \_\_\_, executed by \_\_\_.
  - Loan Agreement and Schedules, if any, dated September 28, 2017, executed by  Borrower and  Guarantor(s), as amended by that certain First Amendment to Loan Agreement and First Amendment to Security Agreement dated of even date herewith, executed by Borrower (and as at any time further amended, restated, supplemented or otherwise modified, the "Loan Agreement").
  - Trademark Security Agreement dated September 28, 2017, executed by Borrower.
  - Patent Security Agreement dated September 28, 2017, executed by Borrower.

All of the terms, conditions and covenants of the above described agreements (the "Agreements") are expressly made a part of this Note by reference in the same manner and with the same effect as if set forth herein at length, and Bank is entitled to the benefits of and remedies provided in the Agreements and any other related document given by Borrower, any guarantor or any pledgor in favor of Bank. In addition to Bank's right of setoff and to any liens and security interests granted to Bank in the Agreements, Borrower hereby grants to Bank a security interest in all of its deposit accounts maintained with Bank, which shall serve as collateral for the indebtedness and obligations evidenced by this Note.

Borrower agrees that the only interest charge is the interest actually stated in this Note, and that any loan or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under this Note, and such charges shall be fully earned and non-refundable when accrued. All other charges imposed by Bank upon Borrower in connection with this Note and the loan including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, reasonable attorneys' fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred or to be incurred by Bank in connection with this Note and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due. Time is of the essence of this Note.

No delay or omission on the part of Bank or other holder hereof in exercising any right hereunder shall operate as a waiver of such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or of any other right on any future occasion. Each Borrower regardless of the time, order or place of signing waives presentment, demand, protest and notices of every kind and assents to any one or more extensions or postponements of the time of payment or any other indulgences, to any substitutions, exchanges or releases of collateral by Bank, and to the additions or releases of any other parties or persons primarily or secondarily liable herefor.

Upon an Event of Default, in addition to Bank's rights set forth in the Loan Agreement, Deed of Trust and other Loan Documents (as defined in the Loan Agreement), Bank may, at its option and subject to any applicable notice period (i) cease making advances or disbursements; (ii) advance funds necessary to remedy any default or pay any lien filed against any of the collateral; (iii) take possession of the collateral or any part thereof; (iv) foreclose Bank's security interest and/or lien on any collateral in accordance with applicable law; (v) make demand upon any or all guarantors; and (vi) exercise any other right or remedy which Bank has under this Note or any related documents or which is otherwise available at law or in equity. All of Bank's rights and remedies shall be cumulative and may be exercised singularly or concurrently. Any election by Bank to pursue any remedy shall not exclude the right to pursue any other remedy unless expressly prohibited by law, and any election by Bank to make expenditures or to take action to perform an obligation of Borrower, or of any Obligor, shall not affect Bank's right to declare a default and exercise its rights and remedies. In addition, upon default, Bank may pursue its full legal remedies under the Agreements and other remedies at law or equity, and the balance due hereunder may be charged against any obligation of Bank to any party including any Obligor.

From and after any Event of Default, interest shall accrue on the sum of the principal balance then outstanding at the rate of fifteen percent (15.0%) per annum ("Default Rate") until such principal and interest have been paid in full, provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of Texas; and further provided that such rate shall apply after judgment. If this Note is placed with an attorney for collection, Borrower agrees to pay, in addition to principal, interest, and late fees, if any, all costs of collection, including but not limited to all reasonable attorneys' fees incurred by Bank, whether or not there is a lawsuit, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any court costs.

To the maximum extent permitted by applicable law, Borrower hereby waives all rights, remedies, claims, and defenses based upon or related to Sections 51.003, 51.004, and 51.005 of the Texas Property Code, to the extent the same pertain or may pertain to any enforcement of this Note. Unless otherwise required under the Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Note remains outstanding or as long as Bank remains obligated to make advances, each Borrower shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of Bank.

All obligations of Borrower shall bind his heirs, executors, administrators, successors, and/or assigns. Use of the masculine pronoun herein shall include the feminine and the neuter, and also the plural. If more than one party shall execute this Note, the term "Borrower" as used herein shall mean all the parties signing this Note and each of them, and all such parties shall be jointly and severally obligated hereunder. Wherever possible, each provision of this Note shall be interpreted in such a manner to be effective and valid under applicable law, but if any provision of this Note shall be prohibited by or invalid under such law, such provision shall be ineffective but only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note. Each Borrower hereby waives all exemptions and homestead laws. The proceeds of the loan evidenced by this Note may be paid to any Borrower. This Note may be executed in any number of counterparts, each of which shall be an original but all of which taken together shall constitute one and the same instrument.

From time to time the maturity date of this Note may be extended, or this Note may be renewed in whole or in part, or a new note of different form may be substituted for this Note, or the rate of interest may be modified, or changes may be made in consideration of loan extensions, and Bank may, from time to time, waive or surrender, either in whole or in part any rights, guaranties, security interests or liens, given for the benefit of Bank in connection with the payment and the securing of payment of this Note; but no such occurrence shall in any manner affect, limit, modify, or otherwise impair any rights, guaranties or security of Bank not specifically waived, released, or surrendered in writing, nor shall Borrower or any Obligor be released from liability by reason of the occurrence of any such event. Bank, from time to time, shall have the unlimited right to release any person who might be liable hereunder, and such release shall not affect or discharge the liability of any other person who is or might be liable hereunder. No waivers and modifications shall be valid unless in writing and signed by Bank. Bank may, at its option, charge any reasonable fees for the modification, renewal, extension, or amendment of any of the terms of this Note not prohibited by applicable law. In case of a conflict between the terms of this Note and any Loan Agreement executed in connection herewith, the priority of controlling terms shall be first this Note, then the Loan Agreement. This Note shall be governed by and construed in accordance with the laws of the State of Texas.

Any legal action with respect to the indebtedness evidenced by this Note may be brought in the courts of the State of Texas and County of Harris or in the appropriate United States District Court situated in Texas, and Borrower hereby accepts and unconditionally submits to the jurisdiction of such courts. Borrower hereby waives any objection to the laying of venue based on the grounds of forum non conveniens with respect thereto.

**REQUIRED INFORMATION FOR A NEW LOAN.** To help the government fight the funding of terrorism and money laundering activities, federal law requires Bank to obtain, verify and record information that identifies each person or entity obtaining a loan including Borrower's legal name, address, tax identification number, date of birth, driver's license, organizational documents or other identifying documents. Failure to provide the required information will result in a violation of the U.S. Patriot Act and will constitute a default under this instrument. In addition, no Borrower, any of its affiliates, or any of their respective directors, officers, managers, partners, or any other authorized representatives is named as a "Specially Designated National and Blocked Person", on the list published by the U.S. Department of the Treasury Office of Foreign Assets Control (OFAC) at its official website.

**UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, BORROWER AND BANK HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS NOTE, ANY OF THE LOAN DOCUMENTS EXECUTED IN CONNECTION HEREWITH OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN BORROWER AND BANK, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. BORROWER AND BANK AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT BORROWER OR BANK MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF BANK AND BORROWER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN AND BORROWER TO ENTER INTO THIS AGREEMENT. FURTHER, BORROWER HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION. BORROWER AND BANK EACH ACKNOWLEDGE THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS PARAGRAPH, THAT IT FULLY UNDERSTANDS ITS TERMS, CONTENT AND EFFECT, AND THAT IT VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS PARAGRAPH.**

(SIGNATURES ON FOLLOWING PAGE)

# BB&T

## PROMISSORY NOTE SIGNATURE PAGE

Borrower: Applied Optoelectronics, Inc.

Account Number: 9700029240

Note Number: 00003

Note Amount: \$21,500,000.00

Date: March 30, 2018

IN WITNESS WHEREOF, Borrower, on the day and year first written above, has executed, or caused this Note to be executed by its authorized officer or representative. Borrower acknowledges receipt of a completed copy of this Note.

WITNESS:

/s/ Jerry K. Hu

Print Name:

Jerry K. Hu

/s/ Jerry K. Hu

Print Name:

Jerry K. Hu

APPLIED OPTOELECTRONICS, INC.

Name of Corporation

By: /s/ Stefan Murry

Name: Stefan Murry

Title: Chief Financial Officer

By: /s/ David Kuo

Name: David Kuo

Title: Vice President, General Counsel and Secretary

# BB&T

## ADDENDUM TO PROMISSORY NOTE

BB&T Account No. 9700029240

THIS ADDENDUM TO PROMISSORY NOTE ("Addendum") is hereby made a part of the Promissory Note dated as of March 30, 2018, from **APPLIED OPTOELECTRONICS, INC.** ("Borrower") payable to the order of **BRANCH BANKING AND TRUST COMPANY** ("Bank") in the principal amount of \$21,500,000.00 (including all renewals, extensions, modifications and substitutions thereof, the "Note").

### I. DEFINITIONS.

1.1 **Adjusted LIBOR Rate** means a rate of interest per annum, which shall be adjusted monthly on the first day of each LIBOR Interest Period, equal to the sum obtained (rounded upwards, if necessary, to the next higher 1/16<sup>th</sup> of 1.0%) by adding (i) the One Month LIBOR plus (ii) the Applicable Margin. The Adjusted LIBOR Rate shall be adjusted for any change in the LIBOR Reserve Percentage so that Bank shall receive the same yield. The interest rate will in no instance exceed the maximum rate permitted by applicable law and if checked here  the interest rate will not decrease below a fixed minimum rate of \_\_\_\_%. If checked here  the interest rate will not exceed ] a fixed maximum rate of \_\_\_\_% or  an average maximum rate of \_\_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Note is repaid in full by Borrower or  annually beginning on \_\_\_\_\_. If the loan has been repaid prior to this date, no reimbursement will be made.

1.2 **Applicable Margin** means the margin set forth below, as determined by Borrower's ratio of Funded Debt to EBITDA (in each case, as defined in that certain Loan Agreement dated September 28, 2017, between Borrower and Bank (as at any time amended, restated, supplemented or otherwise modified, the "Loan Agreement")):

| <u>Level</u> | <u>Funded Debt to EBITDA Ratio</u> | <u>Term Loan Margin</u> |
|--------------|------------------------------------|-------------------------|
| I            | < 1.0 to 1.0                       | 1.15%                   |
| II           | ≥ 1.0 to 1<br>≤ 2.0 to 1.0         | 1.45%                   |
| III          | > 2.0 to 1.0                       | 2.00%                   |

Until April 30, 2018, the margin shall be determined as if Level I were applicable. Thereafter, the margin shall be subject to increase or decrease by Bank on the first day of each LIBOR Interest Period. If Bank is unable to calculate the Funded Debt to EBITDA ratio for a fiscal quarter due to Borrower's failure to deliver any financial statements when required under the Loan Agreement, then, at the option of Bank, the margin shall be determined as if Level III were applicable until the first day of the calendar month following its receipt of such financial statements. If, for any reason (including inaccurate reporting by Borrower), 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 Borrower shall immediately pay to Bank 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. If, for any reason (excluding inaccurate reporting by Borrower and any other reason attributable to Borrower), it is determined that a lower Applicable Margin should have applied to the most recent fiscal quarter then ending than was actually applied, then the proper margin shall be applied retroactively (solely with respect to such most recent fiscal quarter then ending) and Borrower may credit against its next payment an amount equal to the difference between the amount of interest and fees that would have accrued during such most recent fiscal quarter then ending using the proper margin and the amount actually paid during such most recent fiscal quarter then ending.

1.3 **Business Day** means a day other than a Saturday, Sunday, legal holiday or any other day when the Bank is authorized or required by applicable law to be closed.

1.4 **LIBOR Advance** means the advances made by Bank to Borrower evidenced by this Note upon which the Adjusted LIBOR Rate of interest shall apply.

1.5 **LIBOR Interest Period** means the period, as may be elected by the Borrower applicable to any LIBOR Advance, commencing on the date the Note is first made (or the date of any subsequent LIBOR addendum to the Note) and (i) if adjusted monthly, ending on the day that is immediately prior to the numerically corresponding day of each month thereafter or (ii) if adjusted quarterly, ending on the day that is immediately prior to the numerically corresponding day of each quarter thereafter; provided that:

(a) any LIBOR Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such LIBOR Interest Period shall end on the next preceding Business Day; and

(b) any LIBOR Interest Period which begins on a day for which there is no numerically corresponding day in a subsequent month if adjusted monthly or in a subsequent quarter if adjusted quarterly, shall end on the last Business Day of each subsequent month if adjusted monthly or on the last Business Day of each subsequent quarter if adjusted quarterly.

1.6 **LIBOR Reserve Percentage** means the maximum aggregate rate at which reserves (including, without limitation, any marginal supplemental or emergency reserves) are required to be maintained under Regulation D by member banks of the Federal Reserve System with respect to dollar funding in the London interbank market. Without limiting the effect of the foregoing, the LIBOR Reserve Percentage shall reflect any other reserves required to be maintained by such member banks by reason of any applicable regulatory change against (i) any category of liability which includes deposits by reference to which the Adjusted LIBOR Rate is to be determined or (ii) any category of extensions of credit or other assets related to LIBOR.

1.7 **One Month LIBOR** means the average rate quoted by Bloomberg Finance L.P., or any quoting service or commonly available source utilized by the Bank, on the determination date for deposits in U. S. Dollars offered in the London interbank market for one month determined at approximately 11:00 am London time two (2) Business Days prior to the commencement of the applicable LIBOR Interest Period; provided that if the above method for determining one month LIBOR shall not be available, the rate quoted in *The Wall Street Journal*, or a rate determined by a substitute method of determination agreed on by Borrower and Bank; provided, if such agreement is not reached within a reasonable period of time (in Bank's reasonable judgment), a rate reasonably determined by Bank in its sole discretion as a rate being paid, as of the determination date, by first class banking organizations (as determined by Bank) in the London interbank market for U. S. Dollar deposits; and provided further that if One Month LIBOR determined as provided above would be less than zero percent (0%), then One Month LIBOR shall be deemed to be zero percent (0%).

1.8 **Standard Rate** means, for any day, a rate per annum equal to the Prime Rate Equivalent (as defined in the Loan Agreement), and each change in the Standard Rate shall be effective on the date any change in the Prime Rate is publicly announced as being effective.

## II. LOAN BEARING ADJUSTED LIBOR RATE

2.1 Application of Adjusted LIBOR Rate. The Adjusted LIBOR Rate shall apply to the entire principal balance outstanding of a LIBOR Advance for any LIBOR Interest Period.

### 2.2 Adjusted LIBOR Based Rate Protections.

(a) Inability to Determine Rate. In the event that Bank shall have determined, which determination shall be final, conclusive and binding, that by reason of circumstances occurring after the date of this Note affecting the London interbank market, adequate and fair means do not exist for ascertaining the One Month LIBOR on the basis provided for in this Note, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination, whereupon (i) no LIBOR Advance shall be made until Bank notifies Borrower that the circumstances giving rise to such notice no longer exist, and (ii) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

(b) Illegality; Impracticability. In the event that Bank shall determine, which determination shall be final, conclusive and binding, that the making, maintaining or continuance of any portion of a LIBOR Advance (i) has become unlawful as a result of compliance by Bank with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any of the same not having the force of law even though the failure to comply therewith would not be unlawful) or (ii) has become impracticable, or would cause Bank material hardship, as a result of contingencies occurring after the date of this Note materially and adversely affect the London interbank market or Bank's ability to make LIBOR Advances generally, then, and in any such event, Bank shall give notice (by telephone confirmed in writing (which may be delivered by electronic means)) to Borrower of such determination. Thereafter, (x) the obligation of Bank to make any LIBOR Advances or to convert any portion of the loan to a LIBOR Advance shall be suspended until such notice shall be withdrawn by Bank, and (y) any request by Borrower for a LIBOR Advance shall be deemed to be a request for an advance at the Standard Rate.

WITNESS:

/s/ Jerry K. Hu  
Print Name:  
Jerry K. Hu

/s/ Jerry K. Hu  
Print Name:  
Jerry K. Hu

APPLIED OPTOELECTRONICS, INC.  
\_\_\_\_\_  
Name of Corporation

By: /s/ Stefan Murry  
Name: Stefan Murry  
Title: Chief Financial Officer

By: /s/ David Kuo  
Name: David Kuo  
Title: Vice President, General Counsel and Secretary

MAKER: Applied Optoelectronics, Inc.  
 ADDRESS: 13139 Jess Pirtle Blvd  
Sugar Land, Texas  
77478

**BB&T**  
**NOTE MODIFICATION AGREEMENT**

9700029240  
Account Number  
00001  
Note Number

\$60,000,000.00  
 Modified Principal Amount

\$50,000,000.00  
 Original Principal Amount

September 28, 2017  
 Original Date

March 30, 2018  
 Modification Date

This Note Modification Agreement (hereinafter referred to as "Agreement") is made and entered into as of this 30th day of March, 2018 by **APPLIED OPTOELECTRONICS, INC.**, as maker(s) and co-maker(s), if any, of the Promissory Note as defined below (whether one or more, hereinafter referred to jointly and severally as "Borrower"), in favor of **BRANCH BANKING AND TRUST COMPANY**, a North Carolina banking corporation (including its successors and assigns, hereinafter referred to as "Bank").

Borrower previously executed a Promissory Note payable to Bank as more particularly identified by the description of the original amount and date set forth above (including all previous renewals, extensions and modifications thereof, collectively the "Promissory Note"). Borrower and Bank hereby agree that the Promissory Note shall be modified only to the limited extent as is hereinafter set forth; that all other terms, conditions, and covenants of such Promissory Note shall remain in full force and effect; and that this Agreement shall constitute a renewal, extension and modification of the Promissory Note and not a novation.

NOW, THEREFORE, in mutual consideration of the premises, the sum of One Dollar (\$1.00) and other good and valuable consideration, each to the other parties paid, the parties hereto agree that the Promissory Note is hereby amended as follows (checked items contain applicable modifications):

- Borrower shall pay a prepayment fee as set forth in the Prepayment Fee Addendum attached hereto.
- This Agreement hereby permanently reduces the principal amount of the loan to Borrower to the Modified Principal Amount set forth above.

**INTEREST RATE, PRINCIPAL AND INTEREST PAYMENT TERM MODIFICATIONS**

**Interest shall accrue from the date hereof on the unpaid balance outstanding from time to time at the:**

- Fixed rate of \_\_\_% per annum.
- Variable rate of the Bank's Prime Rate plus \_\_\_% per annum to be adjusted \_\_\_ as the Bank's Prime Rate changes.
- As of the Modification Date, any fixed, floating or average maximum rate and fixed minimum rate in effect by virtue of the Promissory Note(s) are hereby deleted. If checked here , the interest rate will not exceed a(n)  fixed  average maximum rate of \_\_\_% or a  floating maximum rate of the greater of \_\_\_% or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of \_\_\_%. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made:  when the Promissory Note is repaid in full by Borrower  annually beginning on \_\_\_.
- The Adjusted LIBOR Rate as more specifically described in the Addendum to Note attached hereto and incorporated herein.

**Principal and interest are payable as follows:**

- Principal (plus any accrued interest not otherwise scheduled herein) is due in full at maturity on September 28, 2020.
- Payable in consecutive \_\_\_ installments of  Principal  Principal and Interest commencing on \_\_\_ and continued on the same day of each calendar period thereafter, in \_\_\_ equal payments of \$\_\_\_, with one final payment of all remaining principal and accrued interest due on \_\_\_.
- Accrued interest is payable monthly commencing on April 5, 2018, and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on September 28, 2020.
- Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder \_\_\_ [monthly, quarterly, annually] on \_\_\_ and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than \_\_\_ months from the date of this Agreement. Borrower understands the payment may increase if interest rates increase.
- This Agreement evidences a revolving line of credit and advances under this Agreement, as well as directions for payment from Borrower's accounts, may be requested orally or in writing by Borrower. Bank may, but need not, require that all oral requests be confirmed in writing. Borrower agrees to be liable for all sums either (i) advanced in accordance with the instructions of an authorized person or (ii) credited to any of Borrower's accounts maintained with Bank. Prior to an Event of Default (as defined in the Loan Agreement, as hereinafter defined), Borrower may borrow, repay, and reborrow pursuant to the terms of the Loan Agreement dated September 28, 2017, between Borrower and Bank (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement").
- Borrower hereby authorizes Bank to automatically draft from its demand deposit or savings account(s) maintained with Bank or another bank, any payment(s), including late fees and other fees and charges due under this Agreement on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or another bank.
- \_\_\_\_\_

The following scheduled payment(s) is (are) deferred:

- \$ \_\_\_ principal }  
 \$ \_\_\_ interest } Payments due on \_\_\_\_\_

is (are) hereby deferred. Payments will resume on \_\_\_ according to the schedule contained herein or to the existing schedule (if no other changes are made herein).

Borrower shall pay to Bank, or order, a late fee in the amount of five percent (5.0%) of any installment past due for ten (10) or more days after written notice is received by Borrower regarding same. When any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, Borrower shall pay to Bank a returned payment fee (currently \$25.00) if Borrower or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to nonsufficient funds. **Bank shall not be obligated to accept any check, money order, or other payment instrument marked “payment in full” on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under the Promissory Note or this Agreement, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless such payment is in fact sufficient to pay the amount due hereunder.**

All interest shall be computed and charged for the actual number of days elapsed on the basis of a year consisting of three hundred sixty (360) days. In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased, or additional supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in the Bank's sole discretion), in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as the Bank's Prime Rate or the One Month LIBOR; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount.

Borrower agrees that the only interest charge is the interest actually stated in the Promissory Note, as modified, and that any renewal or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under the Promissory Note, and such charges shall be fully earned and non-refundable when accrued. All other charges imposed by Bank upon Borrower in connection with the Promissory Note, as modified, and the loan evidenced thereby including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, reasonable attorneys' fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred or to be incurred by Bank in connection with the Promissory Note, as modified, and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due. Time is of the essence in the performance of this Agreement.

The term “Prime Rate,” if used herein, means the rate of interest per annum announced by the Bank from time to time and adopted as its Prime Rate at its executive offices in Winston-Salem, North Carolina. The Prime Rate is one of several rate indexes employed by the Bank when extending credit, and not necessarily the lowest rate. Any change in the interest rate resulting from a change in the Bank's Prime Rate shall become effective as of the opening of business on the effective date of the change.

In addition to Bank's right of setoff and other liens and security interests previously granted to Bank, Borrower hereby grants to Bank a security interest in all of its deposit accounts maintained with Bank, which shall serve as collateral for the indebtedness and obligations evidenced by the Promissory Note and this Agreement. The Bank may, at its option, charge any reasonable fees for the modification, renewal, extension, or amendment of any of the terms of the Promissory Note(s) or this Agreement not prohibited by applicable law.

Unless otherwise provided herein, it is expressly understood and agreed by Borrower that any and all real and personal property given or pledged, whether by Borrower or a third party, as collateral to secure the Promissory Note, shall remain as security for the Promissory Note as modified hereby.

The two (2) paragraphs in the Promissory Note commencing with the words “Subject to applicable notice periods” on page 2 and “Notwithstanding any provision contained” on page 3 of the Promissory Note are hereby deleted in their entirety.

COLLATERAL:  The Promissory Note, as modified, and the performance of the terms of any agreement or instrument relating to, evidencing, or securing the Promissory Note shall be additionally secured by the collateral hereinafter described, a new security instrument shall be executed by Borrower and/or Debtor(s)/Grantor(s), and all other steps necessary to perfect or record the Bank's lien with priority acceptable to Bank shall be taken. All of the terms, conditions and covenants of the below-described agreements (“Additional Agreements”) are expressly made a part of the Promissory Note and this Agreement by reference in the same manner and with the same effect as if set forth herein at length, and Bank is entitled to the benefits of and remedies provided in the Additional Agreements and any other related documents given by Borrower, any guarantor, or any pledgor in favor of Bank.

|                            |  |
|----------------------------|--|
| Date: March 30, 2018       | Type of Agreement: First Amendment to Loan Agreement and First Amendment to Security Agreement |
| Between: Borrower and Bank |  |
| Date: March 30, 2018       | Type of Agreement: Texas Deed of Trust and Security Agreement                                  |
| From: Borrower             | In favor of: Bank as beneficiary   |
| Date: March 30, 2018       | Type of Agreement: Assignment of Leases and Rents  |
| From: Borrower             | In favor of: Bank as assignee  |

\_\_\_\_\_

The security interest in the collateral hereinafter described is hereby terminated with the consent of the Bank and such collateral shall cease to serve as security for payment of the Promissory Note or this Agreement: \_\_\_\_\_

If the Promissory Note being modified by this Agreement is signed by more than one person or entity, the Promissory Note shall be the joint and several obligation and liability of all of the undersigned. It is expressly agreed that this Agreement is a modification of the Promissory Note only and not a novation. The original indebtedness and obligation of Borrower evidenced by the Promissory Note is not extinguished hereby and except for the modifications contained herein, the Promissory Note, and any other loan documents securing or relating to the Promissory Note, shall be and remain in full force and effect. This Agreement shall not release or affect the liability of any guarantors, endorsers or obligors of the Promissory Note. Borrower hereby represents and warrants to Bank that all guarantors, endorsers, pledgors or other obligors of the Borrower's indebtedness have approved and consented to the terms of this Agreement, have waived any objection hereto, have affirmed any and all obligations to Bank and certify that there are no defenses or offsets against such obligations to Bank, including without limitation the Promissory Note. Bank expressly reserves all rights as to any party with right of recourse on the Promissory Note.

Borrower agrees that if Bank has released any collateral, it shall not be required or obligated to take any further steps to release such collateral from any lien or security interest unless Bank determines, in its sole discretion, that it may do so without releasing or impairing its existing liens and security interests or its priority in other collateral; and unless Borrower bears the reasonable cost of such action. No delay or omission on the part of the Bank in exercising any right under the Promissory Note or this Agreement shall operate as a waiver of such right or of any other right of the Bank, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same, or of any other right on any future occasion. Each of the parties signing this Agreement regardless of the time, order or place of signing waives presentment, demand, protest, and notices of every kind, and assents to any one or more extensions or postponements of the time of payment or any other indulgences, to any substitutions, exchanges or releases of collateral by Bank, and to the additions or releases of any other parties or persons primarily or secondarily liable herefor. Wherever possible, the provisions of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective only to the extent of any such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. All rights and obligations arising hereunder shall be governed by and construed in accordance with the laws of the same state which governs the interpretation and enforcement of the Promissory Note.

From and after any Event of Default under this Agreement, the Promissory Note, or any related loan document, including failure to pay upon final maturity, interest shall accrue on the sum of the principal balance then outstanding at the rate of fifteen percent (15.0%) per annum ("Default Rate"), until such principal and interest have been paid in full; provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of Texas; and further that such rate shall apply after judgment. If the Promissory Note and this Agreement are placed with an attorney for collection, Borrower agrees to pay, in addition to principal, interest, and late fees, if any, all costs of collection, including but not limited to all reasonable attorneys' fees incurred by Bank, whether or not there is a lawsuit, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any court costs.

To the maximum extent permitted by applicable law, Borrower hereby waives all rights, remedies, claims, and defenses based upon or related to Sections 51.003, 51.004, and 51.005 of the Texas Property Code, to the extent the same pertain or may pertain to any enforcement of this Note. Unless otherwise required under the Loan Agreement, if applicable, and as long as any indebtedness evidenced by the Promissory Note, as modified hereby, remains outstanding or as long as Bank remains obligated to make advances, each Borrower shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of the Bank. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same instrument.

Any legal action with respect to the indebtedness evidenced by the Promissory Note and this Agreement may be brought in the courts of the State of Texas and County of Harris or in the appropriate United States District Court situated in Texas, and Borrower hereby accepts and unconditionally submits to the jurisdiction of such courts. Borrower hereby waives any objection to the laying of venue based on the grounds of forum non conveniens with respect thereto.

**REQUIRED INFORMATION.** To help the government fight the funding of terrorism and money laundering activities, federal law requires Bank to obtain, verify and record information that identifies each person or entity obtaining a loan including the Borrower's legal name, address, tax identification number, date of birth, driver's license, organizational documents or other identifying documents. Failure to provide the required information will result in a violation of the U.S. Patriot Act and will constitute a default under this instrument. In addition, no Borrower, any of its affiliates, or any of their respective directors, officers, managers, partners, or any other authorized representatives is named as a "Specially Designated National and Blocked Person", on the list published by the U.S. Department of the Treasury Office of Foreign Assets Control (OFAC) at its official website.

**UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE BORROWER AND BANK HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS AGREEMENT, THE PROMISSORY NOTE OR ANY OF THE LOAN DOCUMENTS EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE BORROWER AND BANK, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. BORROWER AND BANK AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT BORROWER OR BANK MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF BANK AND BORROWER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN AND BORROWER TO ENTER INTO THIS AGREEMENT. FURTHER, THE BORROWER HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION. BORROWER AND BANK EACH ACKNOWLEDGE THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS PARAGRAPH, THAT IT FULLY UNDERSTANDS ITS TERMS, CONTENT AND EFFECT, AND THAT IT VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS PARAGRAPH.**

(SIGNATURES ON FOLLOWING PAGE)

# BB&T

## NOTE MODIFICATION SIGNATURE PAGE

Borrower: Applied Optoelectronics, Inc.

Account Number: 9700029240

Modification Amount: \$60,000,000.00

Note Number: 00001

Modification Date: March 30, 2018

IN WITNESS WHEREOF, the undersigned have caused this Note Modification Agreement to be executed, as of the date first written above.

WITNESS:

/s/ Jerry K. Hu  
Print Name:  
Jerry K. Hu

/s/ Jerry K. Hu  
Print Name:  
Jerry K. Hu

By: /s/ Stefan Murry  
Name: Stefan Murry  
Title: Chief Financial Officer

By: /s/ David Kuo  
Name: David Kuo  
Title: Vice President, General Counsel and Secretary

APPLIED OPTOELECTRONICS, INC.  
Name of Corporation

Mail after recording to:  
Parker, Hudson, Rainer & Dobbs LLP  
303 Peachtree St. NE  
Suite 3600  
Atlanta, GA 30308  
Attn: C. Keith Taylor, Esq.

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**STATE OF TEXAS  
COUNTY OF HARRIS**

**ASSIGNMENT OF LEASES AND RENTS**

**THIS ASSIGNMENT OF LEASES AND RENTS** ("Assignment") is made as of this 30th day of March, 2018, by and from **APPLIED OPTOELECTRONICS, INC.**, a Delaware corporation ("Assignor" and "Grantor" for purposes of recordation), having principal offices at 13139 Jess Pirtle Blvd., Sugar Land, Texas 77478, to and for **BRANCH BANKING AND TRUST COMPANY**, a North Carolina banking corporation, having a branch office in Houston, Texas and a mailing address of P.O. Box 1290, Whiteville, North Carolina 28472 ("Assignee" and "Grantee" for purposes of recordation).

Assignor is the sole owner of that certain real property located in the City of Sugar Land, County of Harris, State of Texas described in **Exhibit "A"** attached hereto and by this reference incorporated herein (the "Property") subject to that certain Texas Deed of Trust and Security Agreement dated as of March 30, 2018, conveyed by Assignor to Assignee and recorded concurrently herewith in the Harris County Public Registry, (the "Deed of Trust", as the same may be modified or supplemented from time to time).

For good and valuable consideration, Assignor hereby absolutely and unconditionally assigns, sets over and transfers to Assignee: (a) the income, rents (including, if applicable, all hotel room rents), receivables, security or similar deposits, revenues, issues, royalties, profits, earnings, products and proceeds from any and all of the Property (collectively, the "rents, issues and profits") together with the right, power and authority to collect the same; (b) all leases, written or oral, now in existence or hereafter arising, all other agreements for the use and occupancy of all or any portion of the Property, and any and all extensions or renewals of any thereof (individually "Lease" and collectively, the "Leases"), together with the right, power and authority of Assignor to alter, modify or change the terms thereof, or surrender, cancel or terminate the same; and (c) any and all guarantees of any obligations of any lessee (the "lessee") under each of the leases. Assignor irrevocably appoints Assignee its true and lawful attorney-in-fact, which shall constitute a power coupled with an interest by virtue of this Assignment and is irrevocable so long as any part of the sums secured hereby are outstanding, at any time and from time to time, at the option of Assignee, to demand, receive and enforce payment of rent, to give receipts, releases and satisfactions, and to sue, in the name of Assignor or Assignee, for all the rents, issues and profits and to apply the same to the indebtedness secured; provided, however, that Assignor shall have the right and license to collect the rents, issues and profits prior to any event of default hereunder, the Deed of Trust, the Note (as defined herein), any Hedge Agreement (as defined herein), the Loan Agreement dated September 28, 2017, between Assignor and Assignee (as at any time amended, restated, supplemented or otherwise modified, the "Loan Agreement") or any other loan document evidencing or securing the Indebtedness (collectively the "Loan Documents"). The assignment of the rents, issues and profits in this Assignment is a present, unconditional and absolute assignment from Assignor to Assignee and not merely the passing of a security interest.

This Assignment is made for the purpose of securing:

A. Payment of the principal sum, interest and indebtedness evidenced by (i) a certain Promissory Note (including any amendments, extensions, renewals, restatements or substitutions thereof, and all addenda and attachments thereto, collectively the "Term Note"), in the original aggregate principal sum of Twenty One Million Five Hundred Thousand and no/100 Dollars (\$21,500,000.00) made by Assignor ("Borrower") payable to the order of Assignee dated as of the 30th day of March, 2018, (ii) a certain Promissory Note (including any amendments, extensions, renewals, restatements or substitutions thereof, and all addenda and attachments thereto, collectively, the "Line Note"), in the original aggregate principal sum of Sixty Million and no/100 Dollars (\$60,000,000.00) made by Borrower payable to the order of Assignee dated the 28th day of September, 2017, and (iii) a certain Promissory Note (including any amendments, extensions, renewals, restatements or substitutions thereof, and all addenda and attachments thereto, collectively, the "CapEx Note", and together with the Term Note and the Line Note, collectively, the "Note"), in the original aggregate principal sum of Twenty Six Million and no/100 Dollars (\$26,000,000.00) made by Borrower payable to the order of Assignee dated as of the 30th day of March, 2018.

B. Payment of all other sums due and payable to Assignee under the provisions of this Assignment and the Loan Documents, and all obligations, debts, liabilities and all other indebtedness plus interest thereon, of Assignor or Borrower to Assignee, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, including without limitation (i) repayment and reimbursement of any draft or drawing paid by Assignee under any commercial or standby letter of credit issued by Assignee on the account of Assignor or Borrower; (ii) all indebtedness and obligations of Assignor or Borrower to Assignee (or an affiliate of Assignee) under any interest rate swap transactions, interest rate cap and/or floor transactions, interest rate collar transactions, swap agreements (as defined in 11.U.S.C. § 101) or other similar transactions or agreements, including without limitation any ISDA Master Agreement executed by Assignor or Borrower and all Schedules and Confirmations entered into in connection therewith, hereinafter collectively referred to as a "Hedge Agreement," the terms of which are incorporated herein by reference; and (iii) all costs and expenses incurred by Assignee in connection with the maintenance or preservation of the Property or collection of the rents, issues and profits.

C. The performance and discharge of each and every obligation, covenant and agreement of Assignor or Borrower contained herein or in the Loan Documents, or in any other obligation of Assignor or Borrower to Assignee, and all costs of collection including reasonable attorneys' fees as provided in the Note, the Hedge Agreement or other Loan Documents.

D. All sums owed to Assignee for outstanding amounts advanced under business credit cards issued to the officers and employees of Assignor.

E. In addition to the Note, this Assignment secures all future advances made by Assignee to Assignor or Borrower whether or not advances are obligatory. Specifically, and without limitation, this Assignment secures, in addition to the amounts specified in the Note, all future amounts Assignee in its discretion may lend to Assignor or Borrower, together with interest thereon.

The indebtedness and obligations described in A, B, C, D and E above are collectively referred to herein as the "Indebtedness".

ASSIGNOR WARRANTS to Assignee that Assignor has the full right, power and authority to enter into this Assignment and to assign and convey the rents, issues and profits therefrom to Assignee; that Assignor is the sole owner of its entire interest, as Lessor, in the Leases; that the Leases are valid and enforceable and have not been altered, modified, or amended in any manner whatsoever except as previously disclosed in writing to Assignee; that no lessee named therein is in default under any of the terms, covenants or conditions thereof, that no rent reserved in any Lease has been assigned or anticipated, that no rent for any period subsequent to the date of this Assignment has been collected more than one month in advance of the time when the same became due under the terms of any Lease; that Assignor has full right and title to assign the Leases and all rents, issues and profits thereunder; that Assignor is entitled to receive the rents free and clear of all rights, loans liens, encumbrances and claims except as disclosed to and accepted by Assignee in writing; and that no other assignment of any interest therein has been made.

ASSIGNOR COVENANTS AND AGREES with Assignee to observe and perform all obligations imposed under the Leases; to give prompt notice to Assignee of any notice of default under any Leases received or given by Assignor together with a complete copy of any such notice; at the sole cost and expense of Assignor, to enforce, short of termination of any Lease, the performance or observance of each and every covenant and condition thereof by all parties thereto; and not to do or permit to be done anything to impair the security thereof; not to pay or collect any of the rent, issues and profits arising or accruing under the Leases or from the Property in advance of the time when the same shall become due; not to execute any other assignment of interest in the Leases or assignment of rents arising or accruing from the Leases or from the Property; not to subordinate any Lease to any other encumbrance or permit, consent or agree to such subordination without Assignee's prior written consent; not to alter, modify or change the terms of any Lease or give any consent or exercise any option required or permitted by such terms without the prior written consent of Assignee or cancel or terminate any Lease or accept a surrender thereof or convey or transfer or suffer or permit a conveyance or transfer of the leased premises thereby or of any interest therein so as to effect, directly or indirectly, a merger of the estates and rights of, or a termination or diminution of the obligations of, any party thereunder; not to alter, modify or change the terms of any guaranty of any Lease or cancel or terminate such guaranty without the prior written consent of Assignee; not to consent to any assignment of or subletting under any Lease, whether or not in accordance with its terms, without the prior written consent of Assignee; and at Assignee's request to assign and transfer to Assignee any and all subsequent leases upon all or any part of the Property, and to execute and deliver at the request of Assignee all such further assurances and assignments in the Property as Assignee shall from time to time require.

**THIS ASSIGNMENT** is made on the following additional terms, covenants and conditions:

1. Upon the occurrence and during the continuance of an Event of Default (as defined in the Loan Agreement), Assignee shall have the right to collect and receive at the time of but not prior to, the date provided for the payment thereof, all rents, issues and profits arising under the Leases. Unless and until an Event of Default shall have occurred and is continuing and Assignee shall notify Assignor thereof, Assignor shall collect all rents, issues and profits arising from the Leases. Upon the occurrence and during the continuance of an Event of Default, Assignee may, at its option, without notice and without regard to the adequacy of the security for the Indebtedness, exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law: (a) declare the entire Indebtedness immediately due and payable, including any prepayment penalty that would be required to be paid; (b) either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, take possession of the property described in any Lease or in the Deed of Trust and have, hold, manage, lease and operate the same on such terms and for such period of time as Assignee may deem proper, including notifying lessees to pay Assignee; and/or (c) either with or without taking possession of such Property in its own name, demand, sue for or otherwise collect and receive all rents, issues and profits of the Property, endorse instruments received, or pay the same including those past due and unpaid with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Assignee, and to apply any such collected rents, issues and profits to the payment of: (i) all expenses of managing the Property, including, without being limited thereto, the salaries, fees and wages, of a managing agent and such other employees as Assignee may deem necessary or desirable, and all expenses of operating and maintaining the Property, including, without being limited thereto, all taxes, charges, claims, assessments, water rents, sewer rents and any other liens, and premiums for all insurance which Assignee may deem necessary or desirable, the costs of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Property; and (ii) the Indebtedness together with all costs and attorneys' fees, in such order of priority as to any of the items mentioned in this paragraph, as Assignee in its sole discretion may determine, any statute, law, custom or use to the contrary notwithstanding. The exercise by Assignee of the option granted it in this paragraph and the collection of the rents, issues and profits and the application thereof as herein provided shall not be considered a waiver of any default by Assignor under this Assignment, the Note, any Hedge Agreement, any Loan Document, the Deed of Trust or any Lease.

Assignee, subject to and in accordance with applicable law, may apply to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the rents, issues and profits from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Employment by Assignee shall not disqualify a person from serving as a receiver.

**2. ASSIGNEE SHALL NOT BE LIABLE FOR ANY LOSS SUSTAINED BY ASSIGNOR RESULTING FROM ANY ACT OR OMISSION OF ASSIGNEE OR FROM MANAGING THE PROPERTY UNLESS SUCH LOSS IS CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF ASSIGNEE. ASSIGNEE SHALL NOT BE OBLIGATED TO PERFORM OR DISCHARGE, NOR DOES ASSIGNEE HEREBY UNDERTAKE TO PERFORM OR DISCHARGE, ANY OBLIGATION, DUTY OR LIABILITY UNDER ANY LEASE OR UNDER OR BY REASON OF THIS ASSIGNMENT, AND ASSIGNOR SHALL, AND DOES HEREBY AGREE, TO INDEMNIFY ASSIGNEE FOR, AND TO HOLD ASSIGNEE HARMLESS FROM, ANY AND ALL LIABILITY, LOSS OR DAMAGE WHICH MAY OR MIGHT BE INCURRED UNDER ANY LEASE OR UNDER OR BY ANY REASON OF THIS ASSIGNMENT, AND FROM ANY AND ALL CLAIMS AND DEMANDS WHATSOEVER WHICH MAY BE ASSERTED AGAINST ASSIGNEE BY REASON OF ANY ALLEGED OBLIGATIONS OR UNDERTAKINGS ON ITS PART TO PERFORM OR DISCHARGE ANY OF THE TERMS, COVENANTS, OR AGREEMENTS CONTAINED IN ANY LEASE. SHOULD ASSIGNEE INCUR ANY SUCH LIABILITY UNDER ANY LEASE OR UNDER OR BY REASON OF THIS ASSIGNMENT OR IN DEFENSE OF ANY SUCH CLAIMS OR DEMANDS, THE AMOUNT THEREOF, INCLUDING COSTS, EXPENSES AND REASONABLE ATTORNEYS' FEES SHALL BE SECURED HEREBY AND ASSIGNOR SHALL REIMBURSE ASSIGNEE THEREFOR IMMEDIATELY UPON DEMAND, AND UPON THE FAILURE OF ASSIGNOR TO DO SO, ASSIGNEE MAY, AT ITS OPTION, DECLARE THE INDEBTEDNESS IMMEDIATELY DUE AND PAYABLE. THIS ASSIGNMENT SHALL NOT OPERATE TO PLACE RESPONSIBILITY FOR THE CONTROL, CARE, MANAGEMENT OR REPAIR OF THE PROPERTY OR ANY PORTION THEREOF UPON ASSIGNEE, NOR FOR THE CARRYING OUT OF ANY OF THE TERMS AND CONDITIONS OF ANY LEASE; NOR SHALL IT OPERATE TO MAKE ASSIGNEE RESPONSIBLE OR LIABLE FOR ANY WASTE COMMITTED ON THE PROPERTY BY ANY PARTIES, OR FOR ANY DANGEROUS OR DEFECTIVE CONDITION OF THE PROPERTY OR ANY PORTION THEREOF OR FOR ANY NEGLIGENCE OF ASSIGNOR OR ITS AGENTS IN THE MANAGEMENT, UPKEEP, REPAIR OR CONTROL OF THE PROPERTY OR ANY PORTION THEREOF RESULTING IN LOSS OR INJURY OR DEATH TO ANY LESSEE, LICENSEE, EMPLOYEE OR STRANGER.**

3. Assignee shall have the right to assign Assignor's right, title and interest in the Leases to any subsequent holder of the Deed of Trust subject to the provisions of this Assignment, and to assign the same to any person acquiring title to the Property through foreclosure or otherwise. After Assignor shall have been barred and foreclosed of all right, title and interest and equity of redemption in the Property no assignee of Assignor's interest in the Leases shall be liable to account to Assignor for the rents, issues and profits thereafter accruing.

4. Upon payment and performance in full of the Indebtedness, this Assignment shall become and be void and of no effect, but the affidavit, certificate, letter or statement of any officer, agent or attorney of Assignee showing any part of the Indebtedness to remain unpaid or unperformed shall be and constitute conclusive evidence of the validity, effectiveness, and continuing force of this Assignment and any person may, and is hereby authorized to, rely thereon. Assignor, as the lessor under any Lease, hereby authorizes and directs the lessee named in any such Lease or any other or future lessee or occupant of the Property described therein upon receipt from Assignee of written notice that Assignee is then the holder of the Note to pay over to Assignee all rents, issues, and profits arising or accruing under such Leases or from the Property and to continue so to do until otherwise notified by Assignee.

5. Assignee may take or release other security for the payment of the Indebtedness may release any party primarily or secondarily liable therefor and may apply any other security held by it to the satisfaction of the Indebtedness without prejudice to any of its rights under this Assignment.

6. Nothing contained in this Assignment and no act done or omitted by Assignee pursuant to the powers and rights granted it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under this Assignment or under any of the Loan Documents, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee under the terms of the Loan Documents. The right of Assignee to collect the Indebtedness and to enforce any other security therefor held by it may be exercised by Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

7. Assignor hereby assigns to Assignee any portion of an award payable by reason of condemnation action under the right of eminent domain, and directs that such award shall be paid directly to Assignee.

8. Any guaranty of payment and performance of any Lease shall not be released, modified, or limited in any manner without the prior written consent of Assignee.

9. The occurrence and continuance of any Event of Default under the Loan Agreement shall constitute an Event of Default under this Assignment.

10. This Assignment is made, executed and delivered in the State of Texas and shall be governed by the laws of the State of Texas. Each provision of this Assignment shall be interpreted in such a manner as to be effective and valid under the applicable law, but if any provision hereof shall be prohibited by or invalid under the applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Assignment. In case of any conflict between the terms of this instrument and the terms of the Deed of Trust, the terms of this Assignment shall control.

11. Any legal action with respect to the Indebtedness or this Agreement may be brought in the courts of the State of Texas in which Assignee's branch office or the Property is located or in appropriate United States District Court situated in the State of Texas, and Assignee hereby accepts and unconditionally submits to the jurisdiction of such courts. Assignor hereby waives any object to the laying of venue based on the grounds of forum nonconveniens with respect thereto.

**12. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, ASSIGNOR HEREBY WAIVES THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS ASSIGNMENT OR ANY OF THE LOAN DOCUMENTS EXECUTED IN CONNECTION THEREWITH OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN ASSIGNOR AND ASSIGNEE, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. ASSIGNOR AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ASSIGNEE MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF ASSIGNOR TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. ASSIGNOR ACKNOWLEDGES THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS PARAGRAPH, THAT IT FULLY UNDERSTANDS ITS TERMS, CONTENT AND EFFECT, AND THAT IT VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS PARAGRAPH. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ASSIGNEE TO MAKE THE LOAN AND ENTER INTO THIS ASSIGNMENT. FURTHER, ASSIGNOR HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF ASSIGNEE, NOR ASSIGNEE'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ASSIGNEE WOULD NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. NO REPRESENTATIVE OR AGENT OF ASSIGNEE, NOR ASSIGNEE'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.**

13. This Assignment, together with the covenants and warranties herein contained, shall inure to the benefit of Assignee and any subsequent holder of the Note and the Deed of Trust and shall be binding upon Assignor, its successors and assigns and any subsequent owner of the Property. This Assignment, together with any Loan Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration of or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment. Time is of the essence in the performance of this Assignment. The relationship between Assignor and Assignee created by this Assignment is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Assignee and Assignor.

14. If Assignee institutes any suit or action to enforce any of the terms of this Assignment, Assignee shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Assignee incurs that in Assignee's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid, including, but not limited to, discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the rents, issues and profits of the Property and paying all costs for insuring, maintaining and preserving the Property. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Assignee's attorneys' fees and Assignee's legal expenses whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, fees for the trustee to the extent permitted by applicable law. All such expenses will become a part of the Indebtedness and, at Assignee's option, will: (a) be payable on demand; (b) be added to the balance of the Note and be apportioned among and be payable with any payments to become due during the remaining term of the Note; or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. Assignor also will pay any court costs, in addition to all other sums provided by law.

15. Subject to any limitations stated in this Assignment on transfer of Assignor's interest, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Assignor, Assignee, without notice to Assignor, may deal with Assignor's successors with reference to this Assignment and the Indebtedness by way of forbearance or extension without releasing Assignor from the obligations of this Assignment or liability under the Indebtedness.

16. Assignor hereby releases and waives all rights and benefit of the homestead exemption laws of the State of Texas as to all Indebtedness secured by this Assignment.

17. Assignee shall not be deemed to have waived any rights under this Assignment unless such waiver is given in writing and signed by Assignee. No delay or omission on the part of Assignee in exercising any right shall operate as a waiver of such right or any other right. A waiver by Assignee of a provision of this Assignment shall not prejudice or constitute a waiver of Assignee's right otherwise to demand strict compliance with that provision or any other provision of this Assignment. No prior waiver by Assignee, nor any course of dealing between Assignee and Assignor, shall constitute a waiver of any of Assignee's rights or of any of Assignor's obligations as to any future transactions. Whenever the consent of Assignee is required under this Assignment, the granting of such consent by Assignee in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Assignee. Whenever Assignee's consent or approval is required under this Assignment, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Assignee and Assignee's decision shall be final and conclusive.

18. Any notice required to be given under this Assignment shall be given in writing, and shall be effective when actually delivered, when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Assignment. Any party may change its address for notices under this Assignment by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Assignor agrees to keep Assignee informed at all times of Assignor's current address. Unless otherwise provided or required by law, if there is more than one Assignor, any notice given by Assignee to any Assignor is deemed to be notice given to all Assignors.

**19. NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS ASSIGNMENT, ASSIGNOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR JUDGMENT OF FORECLOSURE ON ASSIGNOR'S BEHALF AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF ASSIGNOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY SUBSEQUENT TO THE DATE OF THIS ASSIGNMENT.**

20. If a court of competent jurisdiction finds any provision of this Assignment to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Assignment. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Assignment shall not affect the legality, validity or enforceability of any other provision of this Assignment.

**(SIGNATURES ON FOLLOWING PAGE)**

**IN WITNESS WHEREOF**, Assignor has hereunto set his hand and seal, or caused this Assignment to be executed by its duly authorized officers, this the day first above shown.

**APPLIED OPTOELECTRONICS, INC.**

By: /s/ Stefan Murry  
**Stefan Murry**, Chief Financial Officer

By: /s/ David Kuo  
**David Kuo**, Vice President, General Counsel and Secretary

**Acknowledgement for Corporation:**

STATE OF TEXAS

COUNTY OF Fort Bend

This instrument was acknowledged before me on this 29th day of March, 2018, by Stefan Murry as Chief Financial Officer of Applied Optoelectronics, Inc., a Delaware corporation, on behalf of said corporation.

(Personalized Seal)  
[SEAL HERE]

/s/ Jerry Hu  
Notary Public, State of Texas

Jerry Hu  
Printed or Typed Name of Notary  
My Commission Expires: 11/12/19

**Acknowledgement for Corporation:**

STATE OF TEXAS

COUNTY OF Fort Bend

This instrument was acknowledged before me on this 29th day of March, 2018, by David Kuo as Vice President, General Counsel and Secretary of Applied Optoelectronics, Inc., a Delaware corporation, on behalf of said corporation.

(Personalized Seal)  
[SEAL HERE]

/s/ Jerry Hu  
Notary Public, State of Texas

Jerry Hu  
Printed or Typed Name of Notary  
My Commission Expires: 11/12/19

**EXHIBIT A**

**TRACT I:**

**6.312** acre of land, being all of Commercial Reserve "A-1", of **AOI 13139 JESS PIRTLE**, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded at Plat No. 20140271 of the Plat Records of Fort Bend County, Texas.

**TRACT II:**

Commercial Reserve "B-3" of **PARK WEST SECOND REPLAT OF RESERVE "B"**, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Slide No. 2339/A of the Plat Records of Fort Bend County, Texas.

Mail after recording to:  
Parker, Hudson, Rainer & Dobbs LLP  
303 Peachtree St. NE  
Suite 3600  
Atlanta, GA 30308  
Attn: C. Keith Taylor, Esq.

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**TEXAS DEED OF TRUST AND SECURITY AGREEMENT**  
**(Collateral Includes Fixtures)**

THIS DEED OF TRUST AND SECURITY Agreement (including any exhibits and/or riders attached hereto, and any modifications and amendments hereof, the "Deed of Trust") is made as of this 30th day of March, 2018 by and among:

|  |  |
|--|--|
| <p>GRANTOR<br/>Applied Optoelectronics, Inc.<br/>13139 Jess Pirtle Blvd.<br/>Sugar Land, Texas 77478</p> | <p>INDIVIDUALLY "TRUSTEE"<br/>and COLLECTIVELY "TRUSTEES"<br/>Scott Asmus<br/>333 Clay Street, Suite 3800, Houston, TX 77002-4107<br/>Heather Morton<br/>2711 N. Haskell Avenue, Suite 1300, Dallas, TX 75204-2911<br/>Steve Sprecher<br/>2001 Ross Avenue, Suite 2700, Dallas, TX 75201-2929<br/>Lisa Tragemann<br/>2711 N. Haskell Avenue, Suite 1300, Dallas, TX 75204-2911</p> <hr/> <p>BENEFICIARY<br/>BRANCH BANKING AND TRUST COMPANY,<br/>a North Carolina banking corporation<br/>P.O. Box 1290, Whiteville, NC 28472</p> |
|--|--|

IF BOX CHECKED, THIS DEED OF TRUST SECURES AN OBLIGATION INCURRED FOR THE CONSTRUCTION OF AN IMPROVEMENT ON LAND

GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

1. The Debt (defined below), on the date hereof, is evidenced by: (i) (A) that Promissory Note dated March 30, 2018, in the maximum principal amount of \$21,500,000.00 executed by Applied Optoelectronics, Inc. (the "Borrower" if not the Grantor), payable to the Beneficiary or order (including all renewals, extensions, modifications, restatements and substitutions thereof, and all addenda and attachments thereto, collectively, the "Term Note"), (B) that Promissory Note dated September 28, 2017, as amended, in the maximum principal amount of \$60,000,000.00 executed by Borrower, payable to the Beneficiary or order (including all renewals, extensions, modifications, restatements and substitutions thereof, and all addenda and attachments thereto, collectively, the "Line Note"), and (C) that Promissory Note dated March 30, 2018, in the maximum principal amount of \$26,000,000.00 executed by Borrower, payable to the Beneficiary or order (including all renewals, extensions, modifications, restatements and substitutions thereof, and all addenda and attachments thereto, collectively, the "CapEx Note", and together with the Term Note and the Line Note, collectively, the "Note"); (ii) any loan, credit agreement, or other document now or hereafter evidencing any debt whatsoever incurred by Grantor and/or Borrower and payable to Beneficiary; and (iii) all indebtedness and obligations of Grantor or Borrower to Beneficiary (or an affiliate of Beneficiary) under any interest rate swap transactions, interest rate cap and/or floor transactions, interest rate collar transactions, swap agreements (as defined in 11 U.S.C. §101) or other similar transactions or agreements, including without limitation any ISDA Master Agreement executed by Grantor or Borrower and all Schedules and Confirmations entered into in connection therewith, hereinafter collectively referred to as a "Hedge Agreement", the terms of which are incorporated herein by reference. In this Deed of Trust the definition of "Debt" includes: (i) the principal; (ii) all accrued interest including possible fluctuations of the interest rate if so provided in the Note, that certain Loan Agreement dated September 28, 2017, executed by Borrower and Beneficiary (as at any time amended, restated, supplemented or otherwise modified, the "Loan Agreement") or other documents evidencing, governing or securing either the Line Note, Term Note or CapEx Note (collectively, the "Loan Documents"); (iii) all renewals, extensions and modifications of any obligation under the Note, Loan Agreement or other Loan Documents (even if such renewals or extensions are evidenced by new notes or other documents); (iv) all indebtedness and obligations under a Hedge Agreement; (v) all other obligations of Grantor to Beneficiary which are described in this Deed of Trust, or in the Note, Loan Agreement or other Loan Documents (for example, payment of the attorneys' fees of the Beneficiary, insurance premiums, ad valorem taxes, environmental reports and appraisals); and (vi) all future advances and/or future obligations to Grantor or Borrower, whether direct or indirect, including without limitation any advances to pay drawings on any irrevocable standby or commercial letter of credit issued on the account of Grantor or Borrower pursuant to an application therefor.

2. This Deed of Trust secures the payment of the Debt, including present and future advances and/or future obligations.

3. No execution of a written instrument or notation shall be necessary to evidence or secure any future advances and/or future obligations made hereunder.

4. The real property which is the subject of this Deed of Trust is located in the County of Fort Bend, State of Texas, and the legal description and the chain of title reference of the real property are set forth in **Exhibit A** attached hereto and incorporated herein.

NOW, THEREFORE, for the purposes and under the conditions described in this Deed of Trust and in consideration of the Debt and the mutual promises of Grantor and Beneficiary, Grantor hereby conveys to Trustees, in trust, with power of sale, the real property described in **Exhibit A** hereto, together with any improvements, equipment, and all heating, lighting, plumbing, cooling, electrical and other fixtures existing or hereafter placed on or attached to this real property, all rights of way and access, water and sewer rights, as-extracted collateral (including oil, gas and mineral rights), royalties, timber rights (including all timber-to-be-cut), rights of ingress and egress, and all appurtenant rights and privileges related thereto, including all declarant rights of the Grantor or Borrower. The term "Property" shall include this real property described in **Exhibit A**, all buildings, structures, improvements and fixtures thereon, all appurtenant rights set forth above and privileges thereto, and all proceeds therefrom.

TO HAVE AND TO HOLD the Property, to Trustees, their successors and assigns, but upon the trust, and under the terms and conditions of this Deed of Trust and of any Rider attached hereto and incorporated herein, to which Grantor, Trustees and Beneficiary hereby agree:

1. PAYMENT AND PERFORMANCE. Grantor shall perform and fulfill all of Grantor's obligations specified in this Deed of Trust and in the Note, Loan Agreement or other Loan Documents. Time is of the essence in the performance of this Deed of Trust. To the extent permitted by applicable law, Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Texas as to all Debt secured by this Deed of Trust.

2. TAXES, DEEDS OF TRUST, OTHER ENCUMBRANCES. Grantor shall make timely payment of all ad valorem taxes, assessments or other charges or encumbrances which may constitute a lien upon the Property. Grantor shall timely pay and perform any obligation, covenant or warranty contained in any other deed of trust or writing which gives rise to any or which may constitute a lien upon any of the Property. Grantor shall upon request of Beneficiary promptly furnish satisfactory evidence of such payment or performance. Grantor shall not enter into, terminate, cancel or amend any lease affecting the Property or any part thereof without the prior written consent of Beneficiary. Grantor shall timely pay and perform all terms of any lease or sublease of the Property or any part thereof.

3. PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Deed of Trust.

(a) Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a fair value basis for the full insurable value covering all improvements on the Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee (lender's loss payee) clause in favor of Beneficiary. Grantor shall also procure and maintain comprehensive general liability insurance in an amount not less than \$10,000,000 with Trustee and Beneficiary being named as lender's loss payee in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption, and boiler insurance, as Beneficiary may reasonably require. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Beneficiary and issued by a company or companies reasonably acceptable to Beneficiary. All policies shall provide that the policies shall not be invalidated by any waiver of the right of subrogation by any insured and shall provide that the carrier shall have no right to be subrogated to Beneficiary. Grantor, upon request of Beneficiary, will deliver to Beneficiary from time to time the policies or certificates of insurance in form satisfactory to Beneficiary, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days prior written notice to Beneficiary. Each insurance policy also shall include an endorsement providing that coverage in favor of Beneficiary will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Property be located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Beneficiary, and to maintain such insurance for the term of the loan.

(b) Application of Proceeds. Grantor shall promptly notify Beneficiary of any loss or damage to the Property. Beneficiary may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. In the event that Grantor should receive any such insurance proceeds, Grantor agrees to immediately turn over and to pay such proceeds directly to Beneficiary. If requested by Grantor in writing after Beneficiary's receipt of any insurance proceeds relating to any damaged or destroyed improvements, Grantor may use such proceeds to repair or restore the Property (and until so used, the proceeds shall be held by Beneficiary as part of the collateral securing the Note) as long as (i) no Event of Default exists; (ii) such repair or restoration is promptly undertaken and concluded within one hundred and eighty (180) days of any such loss or damage, in accordance with plans satisfactory to Beneficiary; (iii) replacement buildings are constructed on the sites of the original casualties and are of comparable size, quality and utility to the destroyed buildings; (iv) the repaired or replaced Property is free of liens, other than liens created by this Deed of Trust and as otherwise permitted under the Loan Documents; and (v) Grantor complies with disbursement procedures for such repair or restoration as Beneficiary may reasonably require. Any proceeds which have not been disbursed within one hundred and eighty (180) days after their receipt and which Beneficiary has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Beneficiary under this Deed of Trust, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Debt. If Beneficiary holds any proceeds after payment in full of the Debt, such proceeds shall be paid to Grantor as Grantor's interests may appear.

(c) Unexpired Insurance at Sale. Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Deed of Trust at any trustee's sale or other sale held under the provisions of this Deed of Trust, or at any foreclosure sale of such Property.

(d) Grantor's Report on Insurance. Upon request of Beneficiary, however not more than once a year, Grantor shall furnish to Beneficiary a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Beneficiary, have an independent appraiser satisfactory to Beneficiary determine the cash value replacement cost of the Property.

4. ESCROW DEPOSITS. Upon demand of Beneficiary, Grantor shall deposit with or add to each payment required under the Note, Loan Agreement or other Loan Documents the amount estimated by Beneficiary to be sufficient to enable Beneficiary to pay as they become due all taxes, charges, assessments, and insurance premiums which Grantor is required to pay. Further, any deficiency occasioned by an insufficiency of such additional payments shall be deposited by Grantor with Beneficiary upon demand.

5. PRESERVATION, MAINTENANCE AND INSPECTION OF THE PROPERTY; APPRAISALS. Grantor shall keep the Property in as good order and repair as it now is (reasonable wear and tear excepted) and shall neither commit nor permit any waste or any other occurrence or use which might impair the value of the Property. Grantor shall not abandon or neglect the Property, and Beneficiary and its representatives may enter upon the Property at all reasonable times to inspect the Property and to conduct evaluations thereof as Beneficiary deems necessary. Grantor shall not initiate or acquiesce in a change in the zoning classification of the Property or make or permit any structural alteration thereof without Beneficiary's prior written consent. Grantor shall not demolish or remove any structural improvements from the Property without Beneficiary's prior written consent. As a condition to the removal of any structural improvements, Beneficiary may require Grantor to make arrangements satisfactory to Beneficiary to replace such improvements with improvements of at least equal value. Should (i) Beneficiary at any time in good faith believe that the fair market value of the Property has declined below the appraised value utilized by Beneficiary in extending credit or any renewal thereof; (ii) there be an Event of Default under the Loan Agreement or this Deed of Trust; (iii) there be a renewal, forbearance or restructure of any indebtedness secured under this Deed of Trust; (iv) any applicable law or regulation require Grantor to obtain a current appraisal or valuation; (v) there be any condemnation or material damage to the Property; (vi) Beneficiary determine that there has been a material adverse change in the financial condition or business operation of Grantor, Borrower, any guarantor or other obligor; (vii) Borrower or Grantor request additional extensions of credit secured by this Deed of Trust; or (viii) Grantor's use of the Property becomes restricted, impaired or materially changed from its intended use on the date hereof; then Beneficiary may, at the expense of Grantor and Borrower, obtain an appraisal or valuation of the Property from an appraiser retained by Beneficiary and thereafter, may obtain such updated appraisals or valuation as Beneficiary shall deem appropriate. Grantor shall cooperate fully with any such appraiser in connection with the preparation of any appraisal or valuation. Grantor shall reimburse Beneficiary the cost of such appraisal or valuation within ten (10) days of request to do so. Any cost incurred by Beneficiary pursuant to this paragraph shall be secured by this Deed of Trust.

6. COMPLIANCE WITH LAWS. Grantor shall regularly and promptly comply with any applicable legal requirements of the United States, the State of Texas or other governmental entity, agency or instrumentality relating to the use or condition of the Property.

7. CONDEMNATION AWARD. Grantor shall immediately notify Beneficiary in writing should all or any part of the Property become subject to any condemnation or expropriation proceedings or other similar proceedings, including without limitation, any condemnation, confiscation, eminent domain, inverse condemnation or temporary requisition or taking of the mortgaged Property, or any part of the Property. Grantor further agrees to promptly take such steps as may be necessary and proper within Beneficiary's sole judgment and at Grantor's expense, to defend any such condemnation or expropriation proceedings and obtain the proceeds derived from such proceedings. Grantor shall not agree to any settlement or compromise or any condemnation or expropriation claim without Beneficiary's prior written consent. Beneficiary may, at Beneficiary's sole option, elect to participate in any such condemnation or expropriation proceedings and be represented by counsel of Beneficiary's choice. Grantor agrees to provide Beneficiary with such documentation as Beneficiary may request to permit Beneficiary to so participate and to reimburse Beneficiary for Beneficiary's costs associated with Beneficiary's participation, including Beneficiary's reasonable attorneys' fees. If Grantor fails to defend any such condemnation or expropriation proceedings to Beneficiary's satisfaction, Beneficiary may undertake the defense of such a proceeding for and on behalf of Grantor. To this end, Grantor irrevocably appoints Beneficiary as Grantor's agent and attorney-in-fact, such agency being coupled with an interest, to bring, defend, adjudicate, settle, or otherwise compromise such condemnation or expropriation claims; it being understood, however, that, unless one or more Events of Default (other than the condemnation or expropriation of the Property) then exists under this Deed of Trust, Beneficiary will not agree to any final settlement or compromise of any such condemnation or expropriation claim without Grantor's prior approval, which approval shall not be unreasonably withheld.

Beneficiary shall have the right to receive all proceeds derived or to be derived from the condemnation, expropriation, confiscation, eminent domain, inverse condemnation, or any permanent or temporary requisition or taking of the Property, or any part or parts of the Property (“condemnation proceeds”). In the event that Grantor should receive any such condemnation proceeds, Grantor agrees to immediately turn over and to pay such proceeds to Beneficiary. All condemnation proceeds, which are received by, or which are payable to either Grantor or Beneficiary, shall be applied, at Beneficiary’s sole option and discretion, and in such manner as Beneficiary may determine (after payment of all reasonable costs, expenses and attorneys’ fees necessarily paid or incurred by Grantor and/or Beneficiary), for the purpose of: (a) replacing or restoring the condemned, expropriated, confiscated, or taken Property; or (b) reducing the then outstanding balance of the Debt, together with interest thereon, with such payments being applied in the manner provided in this Deed of Trust. Beneficiary’s receipt of such condemnation proceeds and the application of such proceeds as provided in this Deed of Trust shall not affect the lien of this Deed of Trust.

8. PAYMENTS BY BENEFICIARY. If an Event of Default shall have occurred and is continuing under the Loan Agreement or this Deed of Trust, Beneficiary may, but it is not obligated to, expend for the account of Grantor any sums, expenses and fees which Beneficiary believes appropriate for the protection of the Property and the maintenance and execution of this trust. Any amounts so expended shall be deemed principal advances fully secured by this Deed of Trust, shall bear interest from the time expended until paid at the rate of interest accruing on the Note, Loan Agreement or other Loan Documents, and shall be due and payable on demand.

9. ASSIGNMENT OF LEASES, RENTS AND PROFITS. Grantor hereby unconditionally assigns to Beneficiary its interest in all leases of the Property and all future leases, rents and profits from the Property as additional security for the payment of the Debt and for the performance of all obligations secured by this Deed of Trust. If an Event of Default shall have occurred and is continuing then Beneficiary may elect to collect rents and profits from the tenants of the Property. Grantor hereby appoints Beneficiary as Grantor’s attorney-in-fact to collect any rents and profits, with or without suit, and to apply the same, less expenses of collection, to the Debt or to any other obligations secured by this Deed of Trust in any manner as Beneficiary may desire. Such appointment of Beneficiary shall be a power coupled with an interest and shall remain in full force and effect as long as any portion of the Debt remains unpaid. However, until an Event of Default has occurred and is continuing, Grantor may continue to collect and retain the rents and profits without any accountability to Beneficiary. This Assignment constitutes a present and absolute assignment of the rents and profits and not merely the granting of a security interest. Beneficiary’s election to pursue the collection of the rents or profits shall be in addition to all other remedies which Beneficiary might have and may be put into effect independently of or concurrently with any other remedy.

10. SECURITY INTEREST. All fixtures, appliances and equipment which are installed in or comprise a part of the Property shall, as far as permitted by law, be deemed to be affixed to the aforesaid land and conveyed therewith. This Deed of Trust shall be considered to be an authenticated security agreement which creates a security interest in such fixtures, appliances and equipment for the benefit of Beneficiary. In that regard, Grantor grants to Beneficiary all of the rights and remedies of a secured party under the Texas Uniform Commercial Code. Grantor hereby authorizes Beneficiary to file, concurrently with the execution of this Deed of Trust and from time to time hereafter, all financing statements and other documents reasonably required to perfect and maintain the security interest created hereby. Grantor hereby irrevocably (as long as the Debt remains unpaid) makes, constitutes and appoints Beneficiary as the true and lawful attorney of Borrower to file any financing statement, continuation of financing statement or similar document required to perfect or continue such security interests. To the extent allowed by law, this Deed of Trust shall be a financing statement sufficient to perfect and maintain any security interest created hereby in the Property and its proceeds. For the purposes hereof, the Grantor is the debtor and the Beneficiary is the secured party, each having the address set forth on page 1 hereof.

11. GRANTOR’S CONTINUING OBLIGATION. This Deed of Trust shall remain as security for full payment of the Debt and for performance of any existing and/or future obligation evidenced by the Note, loan agreement, or other document, notwithstanding any of the following: (a) the sale or release of all or any part of the Property; (b) the assumption by another party of Grantor’s obligations under this Deed of Trust, the Note, Loan Agreement or other Loan Documents; (c) the forbearance or extension of time for payment of the Debt or for performance of any obligations under this Deed of Trust, the Note, Loan Agreement or other Loan Documents, whether granted to Grantor or to a subsequent owner of the Property; or (d) the release of any party who has assumed payment of the Debt or who assumed any other obligations under this Deed of Trust, the Note, Loan Agreement or other Loan Documents. None of the foregoing shall, in any way, affect the full force and effect of the lien of this Deed of Trust or impair Beneficiary’s right to a deficiency judgment in the event of foreclosure against Grantor or any party who had assumed payment of the Debt or who assumed any other obligations the performance of which is secured by this Deed of Trust.

12. **MULTIPLE TRUSTEES; SUBSTITUTION OF TRUSTEE.** If more than one trustee is named as Trustee herein or subsequently appointed pursuant to the terms hereof, then any trustee, acting alone, may exercise all powers granted to Trustees under this instrument, without the need for joinder of or action by any other Trustee. Beneficiary shall have the unqualified right to remove any individual designated as Trustee on the first page of this Deed of Trust, and to appoint one or more substitute or successor Trustees. Each appointment shall be in writing, but without the necessity of recordation, notice to Grantor, or any other action or formality. Any such removal or appointment may be made at any time and from time to time without notice, without specifying any reason therefor and without any court approval. Any such appointee shall become fully vested with title to the Property and with all rights, powers and duties conferred upon the individual originally designated as a Trustee, in the same manner and to the same effect as though that party were named herein as an original Trustee.

13. **INDEMNIFICATION IN EVENT OF ADVERSE CLAIMS.** In the event that Beneficiary or Trustees voluntarily or otherwise shall become parties to any claim, suit or legal proceeding involving the Property, they shall be indemnified and held harmless and shall be reimbursed by Grantor for any amounts paid, including all costs, charges and attorneys' fees incurred in any such suit or proceeding, and the same shall be secured by this Deed of Trust and payable upon demand.

14. **INSPECTION.** Beneficiary may at any reasonable time and from time to time make or cause to be made reasonable entries upon, investigations, and inspections of the Property, including without limitation any inspections or investigations such as sampling and testing which may be necessary or desirable to review compliance with Environmental Laws.

15. **WARRANTIES.** Grantor covenants with and warrants to Trustee and Beneficiary that Grantor is seized of the Property in fee simple, has the right to convey the same in fee simple, that title to the Property is marketable and free and clear of all encumbrances other than those disclosed to and expressly permitted by the Beneficiary, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, subject only to any declarations, easements, restrictions or encumbrances listed in the title opinion or title insurance policy which Beneficiary obtained in the transaction in which Beneficiary obtained this Deed of Trust. Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Trustee or Beneficiary under this Deed of Trust, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Beneficiary shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Beneficiary's own choice, and Grantor will deliver, or cause to be delivered, to Beneficiary such instruments as Beneficiary may request from time to time to permit such participation. All representations, warranties, and agreements made by Grantor in this Deed of Trust shall survive the execution and delivery of this Deed of Trust, shall be continuing in nature, and shall remain in full force and effect until such time as the Debt shall be paid in full.

16. **ATTORNEYS' FEES.** In the event that Grantor or Borrower shall default in its obligations under this Deed of Trust, the Note, Loan Agreement or other Loan Documents, and Beneficiary employs an attorney to assist in the collection of the Debt or to enforce compliance of Grantor with any of the provisions of this Deed of Trust, the Note, Loan Agreement or other Loan Documents or in the event Beneficiary or any Trustee shall become parties to any suit or legal proceeding (including any proceeding conducted before any United States Bankruptcy Court) concerning the Property, concerning the lien of this Deed of Trust, concerning collection of the Debt or concerning compliance by Grantor with any of the provisions of this Deed of Trust, the Note, Loan Agreement or other Loan Documents, Grantor shall pay Beneficiary's reasonable attorneys' fees and all of the costs that may be incurred, and such fees and costs shall be secured by this Deed of Trust and its payment enforced as if it were a part of the Debt. Grantor shall be liable for such attorneys' fees and costs whether or not any suit or proceeding is commenced.

17. **ANTI-MARSHALLING PROVISIONS.** Trustees and Beneficiary may grant releases at any time and from time to time of all or any portion of the Property (whether or not such releases are required by agreement among the parties) agreeable to Trustees and Beneficiary without notice to or the consent, approval or agreement of other parties and interests, including junior lienors and purchasers subject to the lien of this Deed of Trust, and such releases shall not impair in any manner the validity of or priority of this Deed of Trust on that portion of the Property remaining subject to this Deed of Trust, nor release Grantor from personal liability for the Debt. Notwithstanding the existence of any other security interests in the Property held by Beneficiary or by any other party, Beneficiary shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies available to Beneficiary, and Beneficiary shall further have the right to determine the order in which any or all portions of the Debt are satisfied from the proceeds realized upon the exercise of any remedy it has. Grantor, or any party who consents to this, or any party who has actual or constructive notice hereof, hereby waives any and all rights to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

18. ENVIRONMENTAL WARRANTIES, INDEMNITIES AND AGREEMENTS. Grantor for itself, its successors and assigns represents, warrants and agrees that (a) neither Grantor nor, to Grantor's knowledge, any other person has generated, manufactured, stored, treated, processed, released, discharged or disposed of any Hazardous Substances on the Property or received any notice from any Governmental Authority (hereinafter defined) or other person with regard to a release of Hazardous Substances on, from or otherwise affecting the Property; (b) neither Grantor nor, to Grantor's knowledge, any other person has violated any applicable Environmental Laws (hereinafter defined) relating to or affecting the Property; (c) the Property is presently being operated in compliance with all Environmental Laws; there are no circumstances presently existing upon or under the Property, or relating to the Property which may violate any applicable Environmental Laws, and there is not now pending, or threatened, any action, suit, investigation or proceeding against Grantor relating to the Property (or against any other party relating to the Property) seeking to enforce any right or remedy under any of the Environmental Laws; (d) except in strict compliance with Environmental Laws, the Property shall be kept free of Hazardous Substances which would violate any Environmental Law and shall not be used to generate, manufacture, transport, treat, store, handle, dispose, process or release Hazard Materials; (e) Grantor shall at all times comply with and ensure compliance by all other parties with all applicable Environmental Laws and shall keep the Property free and clear of any liens imposed pursuant to any applicable Environmental Laws; (f) Grantor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and other directives from any Governmental Authority necessary to comply with Environmental Laws; Grantor is in full compliance with the terms and provisions of the Environmental Requirements (hereinafter defined) and will continue to comply with the terms and provisions of the Environmental Requirements; (g) Grantor shall immediately give Beneficiary oral and written notice in the event that Grantor receives any notice from any Governmental Authority or any other party with regard to any release or storage of Hazardous Substances on, from or affecting the Property and shall conduct and complete all investigations, sampling, and testing, and all remedial, removal, and other actions necessary or required to clean up and remove all Hazardous Substances on, from or affecting the Property in accordance with all applicable Environmental Laws.

Grantor hereby agrees to indemnify Beneficiary and Trustees and hold Beneficiary and Trustees harmless from and against any and all losses, liabilities, damages, injuries (including, without limitation, reasonable attorneys' fees) and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Beneficiary or Trustees for, with respect to, or as a direct or indirect result of (i) the presence on, or under, or the escape, spillage, emission or release on or from the Property of any Hazardous Material regardless of whether or not caused by or within the control of Grantor, (ii) the violation of any Environmental Laws or Environmental Requirements relating to or affecting the Property, whether or not caused by or within the control of Grantor, (iii) the failure by Grantor to comply fully with the terms and provisions of this paragraph, or (iv) any warranty or representation made by Grantor in this paragraph being false or untrue in any material respect. The obligations and liabilities of Grantor under this paragraph shall survive the foreclosure of the Deed of Trust, the delivery of a deed in lieu of foreclosure, the cancellation of the Note; or if otherwise expressly permitted in writing by the Bank, the sale or alienation of any part of the Property.

In the event that any of the Grantor's representations or warranties shall prove to be materially false or Grantor fails to satisfy any Environmental Requirement, Beneficiary, in its sole discretion, may (i) choose to assume compliance with governmental directives and the Grantor agrees to reimburse Beneficiary for all costs, expenses (including all reasonable attorneys' fees, whether in-house or independent), fines, penalties, judgments, suits, or liabilities whatsoever associated with such compliance; or (ii) seek all legal and equitable remedies available to it including, but not limited to, injunctive relief compelling Grantor to comply with all Environmental Requirements relating to the Property. Beneficiary's rights hereunder shall be in addition to all rights granted under the Note, Loan Agreement or other Loan Documents and payments by Grantor under this provision shall not reduce Grantor's obligations and liabilities thereunder. In the event Beneficiary undertakes compliance with Environmental Requirements which Grantor failed to perform or which Beneficiary determines is necessary to sell all or any part of the Property in connection with exercise of Beneficiary's remedies under the Note, Loan Agreement or other Loan Documents, Grantor authorizes Beneficiary and/or Beneficiary's agents to prepare and execute on Grantor's behalf, any manifest or other documentation relating to the removal and/or disposal of any Hazardous Substances, from, at or on the Property. Grantor acknowledges that Beneficiary does not own, or have a security interest in, any Hazardous Substances which exist on, originate from or affect the Property. All amounts expended by the Beneficiary in connection with the exercise of its rights hereunder (including reasonable attorneys' fees and the fees of any environmental consultants) shall become part of the indebtedness secured by this Deed of Trust.

For purposes of this Deed of Trust: "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, and any "Super Fund" or Super Lien" law, or any other federal, state or local law, regulation or decree regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Substances. "Environmental Requirement" means any administrative orders, directives, judgments, consent orders, permits, licenses, authorizations, consents, settlements, agreements or other formal or informal directions or guidance issued by or entered into with any Governmental Authority or private party, including the provisions of any Environmental Law, which obligate or commit Grantor to investigate, remediate, treat, monitor, dispose or remove Hazardous Substances. "Governmental Authority" means any federal, state or local agency, department, court or other administrative, legislative or regulatory federal, state or local governmental body, or any private individual or entity acting in place of such entities. "Hazardous Substances" means and includes petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material defined as such in the Environmental Laws.

19. **EVENTS OF DEFAULT.** The occurrence and continuance of any Event of Default as defined in the Loan Agreement shall constitute an Event of Default hereunder.

20. **REMEDIES OF BENEFICIARY UPON DEFAULT.** Upon the occurrence and continuance of any Event of Default, Beneficiary may, at its option, without notice, demand, presentment, notice of nonpayment or nonperformance, protest, notice of protest, notice of intent to accelerate, notice of acceleration or any other notice or any other action, all of which are hereby waived by Grantor and all other parties obligated in any manner whatsoever on the Debt, declare the Debt to be immediately due and payable in full; and, on request of Beneficiary, any Trustee shall proceed with foreclosure under the power of sale which is conferred hereby in any manner permitted by Texas law, including selling the Property or any part thereof at public sale to the last and highest bidder for cash, free of any equity of redemption, homestead, dower, curtesy or other state or federal exemption, all of which are expressly waived by Grantor, after compliance with Section 51.002 of Texas Property Code (or, if and to the extent such statute is not then in force, with the applicable requirements, at the time of the sale, of the successor statute or statutes, if any, governing sales of Texas real property under powers of sale conferred by deeds of trust); and such Trustee shall execute and deliver to the purchaser, a Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. The proceeds of any such sale shall be applied in the manner and in the order prescribed by applicable law, it being agreed that the expenses of any such sale shall include the reasonable fees (not based on a percentage of the loan or foreclosure sale price) of such Trustee. Beneficiary may bid and become the purchaser at any sale under this Deed of Trust. At any such sale Trustee may at his election require the successful bidder immediately to deposit with such Trustee cash in an amount equal to all or any part of the successful bid, and notice of any such requirement need not be included in the advertisement of the notice of such sale. Beneficiary, subject to and in accordance with applicable laws of the State of Texas, may request the appointment of a Receiver for the Property.

In addition to the rights and powers of sale granted under the preceding provisions of this Section 20 and in addition to any other rights and remedies that Beneficiary may have at law, in equity or otherwise, upon default, Beneficiary or any Trustee, upon written request of Beneficiary, may proceed by suit or suits, at law or in equity, to enforce the payment of the Debt and the performance and discharge of the Debt in accordance with the terms hereof and the Note, Loan Agreement or other Loan Documents, to foreclose the liens and security interests of this Deed of Trust as against all or any part of the Property, and to have all or any part of the Property sold under the judgment and decree of a court of competent jurisdiction. This remedy shall be cumulative of any other nonjudicial remedies available to Beneficiary with respect to the Note, Loan Agreement or other Loan Documents. Proceeding with a request or receiving a judgment for legal relief shall not be or be deemed to be an election of remedies or bar any available nonjudicial remedy of Beneficiary.

21. **RELEASE AND CANCELLATION.** Upon payment in full of the Debt, this Deed of Trust and the Note, Loan Agreement or other Loan Documents shall be marked "Satisfied" and returned to Grantor, and this conveyance shall be null and void and may be cancelled of record at the request and cost of Grantor, and title to the Property shall revert as provided by law.

22. **MISCELLANEOUS.** The captions and headings of the paragraphs of this Deed of Trust are for convenience only and shall not be used to interpret or define any provisions. All remedies provided herein are distinct and cumulative to any other right or remedy under this Deed of Trust or afforded by law or equity, and may be exercised concurrently, independently or successively. All covenants contained herein shall bind, and the benefits and advantages shall inure to, the respective heirs, executors, administrators, successors or assigns of the parties to this Deed of Trust, and the designations "Grantor", "Trustee" and "Beneficiary" include the parties, their heirs, executors, administrators, successors and assigns. The designations "Corporate", "Corporation", and "Partnership" include limited liability companies and limited liability partnerships. Whenever used, the singular shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders. This Deed of Trust shall be governed by and construed under Texas law. Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Beneficiary shall not be a waiver of Beneficiary's right to accelerate the maturity of the Debt. Time is of the essence in the payment or performance of any of the obligations, or of any covenant or warranty contained in this Deed of Trust or in the Note, Loan Agreement or other Loan Documents. In no event shall interest contracted for, charged or received hereunder or under the Note, plus any other charges in connection herewith or therewith which constitute interest, exceed the maximum interest permitted by applicable law. The amounts of such interest or other charges previously paid to the holder of the Note in excess of the amounts permitted by applicable law shall be applied by the holder of the Note to reduce the principal of the indebtedness evidenced by the Note, or, at the option of the holder of the Note, be refunded. To the extent permitted by applicable law, determination of the legal maximum amount of interest shall at all times be made by amortizing, prorating, allocating and spreading in equal parts during the period of the full stated term of the loan and indebtedness, all interest at any time contracted for, charged or received from Grantor, Borrower or co-maker, endorser, guarantor or surety for Grantor in connection with the loan and indebtedness secured hereby, so that the actual rate of interest on account of such indebtedness is uniform throughout the term of the Note.

23. **WAIVER OF DEFICIENCY LAWS: NOTWITHSTANDING THE PROVISIONS OF SECTIONS 51.003, 51.004, AND 51.005 OF THE TEXAS PROPERTY CODE (AS THE SAME MAY BE AMENDED FROM TIME TO TIME), AND TO THE EXTENT PERMITTED BY LAW, GRANTORS AGREE THAT BENEFICIARY SHALL BE ENTITLED TO SEEK A DEFICIENCY JUDGMENT FROM GRANTORS AND ANY OTHER PARTY OBLIGATED ON THE NOTE OR GUARANTY OF THE NOTE EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT OWING ON THE NOTE AND THE AMOUNT FOR WHICH THE PROPERTY WAS SOLD PURSUANT TO A JUDICIAL OR NONJUDICIAL FORECLOSURE SALE. GRANTORS EXPRESSLY RECOGNIZE THAT THIS SECTION CONSTITUTES A WAIVER OF THE ABOVE-CITED PROVISIONS OF THE TEXAS PROPERTY CODE WHICH WOULD OTHERWISE PERMIT GRANTORS AND OTHER PERSONS AGAINST WHOM RECOVERY OF DEFICIENCIES IS SOUGHT OR GUARANTORS INDEPENDENTLY (EVEN ABSENT THE INITIATION OF DEFICIENCY PROCEEDINGS AGAINST THEM) TO PRESENT COMPETENT EVIDENCE OF THE FAIR MARKET VALUE OF THE PROPERTY AS OF THE DATE OF FORECLOSURE AND OFFSET AGAINST ANY DEFICIENCY THE AMOUNT BY WHICH THE FORECLOSURE SALE PRICE IS DETERMINED TO BE LESS THAN SUCH FAIR MARKET VALUE. GRANTOR FURTHER RECOGNIZES AND AGREES THAT THIS WAIVER CREATES AN IRREBUTTABLE PRESUMPTION THAT THE FORECLOSURE SALE PRICE IS EQUAL TO THE FAIR MARKET VALUE OF THE HEREIN FOR PURPOSES OF CALCULATING DEFICIENCIES OWNED BY GRANTOR, OTHER BORROWERS ON THE NOTE, GUARANTORS, AND OTHERS AGAINST WHOM RECOVERY OF A DEFICIENCY IS SOUGHT.**

Alternatively, in the event this waiver is determined by a court of competent jurisdiction to be unenforceable, the following shall be the basis for the finder of fact's determination of the fair market value of the Property as of the date of the foreclosure sale in proceedings governed by sections 51.003, 51.004, and 51.005 of the Texas Property Code (as amended from time to time):

- a. The Property shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Property will be repaired or improved in any manner before a resale of the Property after foreclosure;
- b. The valuation shall be based upon an assumption that the foreclosure purchaser desires a prompt resale of the Property for cash promptly (but no later than twelve months) following the foreclosure sale;
- c. All reasonable closing costs customarily borne by the seller in a commercial real estate transaction should be deducted from the gross fair market value of the Property, including, without limitation, brokerage commissions, title insurance, a survey of the Property, tax proration, attorney's fees, and marketing costs;
- d. The gross fair market value of the Property shall be further discounted to account for any estimated holding costs associated with maintaining the Property pending sale, including, without limitation, utilities expenses, property management fees, taxes and assessments (to the extent not accounted for in the preceding paragraph), and other maintenance expenses; and
- e. Any expert opinion testimony given or considered in connection with a determination of the fair market value of the Property must be given by persons having at least five years' experience in appraising property similar to the Property and who have conducted and prepared a complete written appraisal of the Property taking into consideration the factors set forth above.

24. **OBLIGATIONS ABSOLUTE.** Grantor agrees that the rights of Beneficiary and the obligations of Grantor hereunder are absolute and unconditional, and without in any way affecting such rights and obligations, and without notice to or further consent of Grantor: (a) advances may be made from time to time under the Note; (b) the Note, or any part thereof, may be renewed or extended beyond maturity, the interest rate may be adjusted, and the terms of the Note or any Hedge Agreement may otherwise be modified, as often as may be desired; (c) Beneficiary may release or discharge any party who is or may become liable for the Note; (d) Beneficiary may release or discharge any collateral which is or may become security for the Note; and (e) Beneficiary may do, or fail to do, any other act which might, but for the provisions of this Section, constitute a legal or equitable discharge of Grantor's obligations hereunder. Grantor further waives any right it may have to require Beneficiary to proceed against any other party liable for the Note or of any other collateral securing the Note or any guaranty before exercising any remedies herein granted to Beneficiary.

25. OBLIGATIONS UNCONDITIONAL. The liability of Grantor shall not be affected, impaired or released by: (i) any failure, neglect or omission by Beneficiary to realize upon or collect any of the Note, any obligation hereunder, or any security for or other guaranty of the Note or any obligation hereunder, or to exercise any remedies of setoff or otherwise that it may have with respect to property of Borrower possessed by Beneficiary; (ii) any defense Borrower or any other party primarily or secondarily liable for any of the Note might have to the payment of the Note or any Hedge Agreement; (iii) any determination that any lien taken, or attempted to be taken, by Beneficiary to secure the Note is invalid or unperfected; (iv) any determination that any party executing any evidence of any of the Note or any Hedge Agreement on behalf of Borrower was without power or authority to do so or that for any other reason the Note or any Hedge Agreement, any security therefor, or any other guaranty hereof, are invalid or unenforceable; or (v) any defenses Borrower may have or assert to the Note or any Hedge Agreement. It is understood that nothing shall discharge or satisfy Grantor's liability hereunder except the full performance and payment of any guaranty or Beneficiary's written release of Grantor's liability. Grantor represents and covenants that it is and shall remain independently informed of the financial condition of Borrower and all other circumstances which bear on the risk of non-payment of the Note or any Hedge Agreement. Grantor waives any right to require Beneficiary to disclose to it any information Beneficiary has or may have in the future concerning such condition or circumstances.

26. FURTHER ASSURANCES. At any time, and from time to time, upon request of Beneficiary, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Beneficiary or to Beneficiary's designee, and when requested by Beneficiary, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Beneficiary may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Beneficiary, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, Loan Agreement or other Loan Documents, this Deed of Trust, and any related documents, and (2) the liens and security interests created by this Deed of Trust as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Beneficiary agrees to the contrary in writing, Grantor shall reimburse Beneficiary for all costs and expenses incurred in connection with the matters referred to in this paragraph.

27. NOTICES. Any notice required to be given under this Deed of Trust, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when deposited with a nationally recognized overnight courier, or, if mailed, three (3) days after being deposited in the United States mail, as first class, certified mail postage prepaid, directed to the addresses shown at the beginning of this Deed of Trust. All copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust shall be sent to Beneficiary's address, as shown near the beginning of this Deed of Trust. Any party may change its address for notices under this Deed of Trust by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Beneficiary informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Beneficiary to any Grantor is deemed to be notice given to all Grantors.

28. CHOICE OF VENUE. Any legal action with respect to the Debt evidenced by this instrument or agreement may be brought in the courts of the State of Texas or in the appropriate United States District Court situated in Texas and Grantor hereby accepts and unconditionally submits to the jurisdiction of such courts. Grantor hereby waives any objection to the laying of venue based on the grounds of forum non conveniens with respect thereto.

29. NO WAIVER BY BENEFICIARY. Beneficiary shall not be deemed to have waived any rights under this Deed of Trust unless such waiver is given in writing and signed by Beneficiary. No delay or omission on the part of Beneficiary in exercising any right shall operate as a waiver of such right or any other right. A waiver by Beneficiary of a provision of this Deed of Trust shall not prejudice or constitute a waiver of Beneficiary's right otherwise to demand strict compliance with that provision or any other provision of this Deed of Trust. No prior waiver by Beneficiary, nor any course of dealing between Beneficiary and Grantor, shall constitute a waiver of any of Beneficiary's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Beneficiary is required under this Deed of Trust, the granting of such consent by Beneficiary in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Beneficiary.

30. NON-LIABILITY OF BENEFICIARY. The relationship between Grantor and Beneficiary created by this Deed of Trust is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Beneficiary and Grantor. Grantor is exercising Grantor's own judgment with respect to Grantor's business. All information supplied to Beneficiary is for Beneficiary's benefit only and no other party is entitled to rely on such information. There is no duty for Beneficiary to review, inspect, supervise or inform Grantor of any matter with respect to Grantor's business. Beneficiary and Grantor intend that Beneficiary may reasonably rely on all information supplied by Grantor to Beneficiary, together with all representations and warranties given by Grantor to Beneficiary, without investigation or confirmation by Beneficiary and that any investigation or failure to investigate will not diminish Beneficiary's right to so rely.

31. **WAIVER OF TRIAL BY JURY. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS INSTRUMENT OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND BENEFICIARY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BENEFICIARY TO MAKE THE LOAN SECURED BY THIS INSTRUMENT. FURTHER, THE UNDERSIGNED HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF BENEFICIARY, NOR BENEFICIARY'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BENEFICIARY WOULD NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION. NO REPRESENTATIVE OR AGENT OF BENEFICIARY, NOR BENEFICIARY'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.**

*SIGNATURES ON THE FOLLOWING PAGES*

IN WITNESS WHEREOF, the Grantor has hereunto set his hand, or caused this Deed of Trust to be executed by its duly authorized officers, this the day first above shown.

**Applied Optoelectronics, Inc.**

By: /s/ Stefan Murry  
**Stefan Murry**, Chief Financial Officer

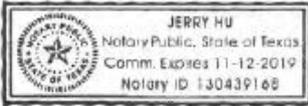
By: /s/ David Kuo  
**David Kuo**, Vice President, General Counsel and Secretary

STATE OF TEXAS

COUNTY OF Fort Bend

This instrument was acknowledged before me on this 29th day of March, 2018, by Stefan Murry as Chief Financial Officer of APPLIED OPTOELECTRONICS, INC. a Delaware corporation, on behalf of said corporation.

(Personalized Seal)



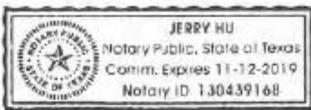
[Signature]  
Notary Public, State of Texas  
Jerry Hu  
Printed or Typed Name of Notary  
My Commission Expires: 11/12/19

STATE OF TEXAS

COUNTY OF Fort Bend

This instrument was acknowledged before me on this 29th day of March, 2018, by David Kuo, Vice President, General Counsel and Secretary of APPLIED OPTOELECTRONICS, INC. a Delaware corporation, on behalf of said corporation.

(Personalized Seal)



[Signature]  
Notary Public, State of Texas  
Jerry Hu  
Printed or Typed Name of Notary  
My Commission Expires: 11/12/19

**EXHIBIT A**

Real Property Description

**TRACT I:**

**6.312** acre of land, being all of Commercial Reserve "A-1", of **AOI 13139 JESS PIRTLE**, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded at Plat No. 20140271 of the Plat Records of Fort Bend County, Texas.

**TRACT II:**

Commercial Reserve "B-3" of **PARK WEST SECOND REPLAT OF RESERVE "B"**, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Slide No. 2339/A of the Plat Records of Fort Bend County, Texas.

**Environmental Certification and Indemnity Agreement**

THIS ENVIRONMENTAL CERTIFICATION AND INDEMNITY AGREEMENT (“Agreement”) is made as of \_\_\_\_\_, 2018, by **APPLIED OPTOELECTRONICS, INC.**, a Delaware corporation and its heirs, executors, administrators, legal representatives, successors and assigns (“Customer”) in favor of **BRANCH BANKING AND TRUST COMPANY**, a North Carolina banking corporation (“BB&T”) and other “Indemnified Parties” (defined below).

A default under this Agreement shall be a default under the Security Documents, as hereinafter defined:

WHEREAS, the parties are entering into an amendment to a loan, lease, line of credit or other financial transaction (as applicable, the “Financial Transaction”) on the same date of this Agreement as evidenced by documents executed by the Customer which may include a loan agreement, promissory note, mortgage, security deed, deed of trust, assignment of leases, security agreement and other loan documents (collectively the “Security Documents”) which give BB&T a lien or security interest in certain real or personal property as security for Customer’s successful performance of its obligations pursuant to the Financial Transaction; and

WHEREAS, BB&T is unwilling to enter into the Financial Transaction unless Customer provides the indemnifications, representations, warranties, and covenants set forth in this Agreement for the benefit of the Indemnified Parties.

NOW, THEREFORE, in return for good and valuable consideration, the sufficiency of which is hereby acknowledged, and to induce BB&T to enter into the Financial Transaction with Customer, the Customer makes the following covenants, representations, warranties, and indemnifications:

1. Definitions. Capitalized terms used herein which are not defined below shall have the same meaning as the same terms used in any of the Security Documents.
  - a. “Collateral” means the real estate and/or personal property which is offered as security in the Financial Transaction involving Customer as reflected in the Security Documents and/or any other property which may be added or substituted as security by the Customer in the future with BB&T’s approval.
  - b. “Environmental Condition” means the presence or release of any Hazardous Substances on, in, about, under or from the Collateral; and shall include any non-compliance with any Environmental Requirements.
  - c. “Environmental Law” means any present or future federal, state or local laws, statutes, codes, ordinances, rules, regulations, standards, policies or guidelines, as wells as common law, relating to the protection of human health or the environment, and otherwise relating to Hazardous Substances.
  - d. “Environmental Requirement” means any administrative orders, directives, judgments, consent orders, permits, licenses, authorizations, consents, settlements, agreements or other formal or informal directions or guidance issued by or entered into with any Governmental Authority or private party, including the provisions of any Environmental Law, which obligate or commit Customer to investigate, remediate, treat, monitor, store, dispose or remove Hazardous Substances.
  - e. “Governmental Authority” means any federal, state or local agency, department, court or other administrative legislative or regulatory federal, state or local governmental body, or any private individual or entity acting in place of such entities.
  - f. “Hazardous Substances” shall mean any material or substance regulated or identified as hazardous substances, materials, wastes, toxic substances, pollutants, contaminants under or by any Environmental Law.

- g. "Indemnified Parties" means BB&T and its employees, officers, directors, shareholders, partners, agents, representatives, affiliates and/or subsidiaries, successors and assigns, or any party acting on BB&T's behalf or through BB&T's authority or pursuant to any rights under the Security Documents.
  - h. "Legal Action" means any claim, suit or proceeding, whether administrative or judicial in nature.
  - i. "Losses" means any and all claims, demands, suits, liabilities, actions, proceedings, obligations, debts, damages, costs, expenses (including but not limited to attorneys' and other professional fees whether in-house or outside professionals), fines, penalties, charges, fees, judgments, awards arising out of any Environmental Condition, including interest on any unpaid sums.
2. Representations and Warranties. Except as set forth, documented and attached to this document as an addendum by Customer and any written environmental reports provided by Customer, the Customer, upon knowledge and belief, hereby represents and warrants to BB&T that, as of the date of the Security Documents:
- a. The Collateral, if real estate, is not listed on any federal or state list of hazardous waste disposal or contaminated sites, nor is Customer aware of any Environmental Condition which could be the basis for such a listing.
  - b. The Collateral was not used for the generation, manufacture, storage, treatment, release, discharge or disposal of Hazardous Substances.
  - c. There is no unremediated Environmental Condition on or originating from the Collateral.
  - d. There is no lien recorded against the Collateral in connection with any Environmental Condition, nor is there any basis for the recording of such a lien.
  - e. The Collateral is in material compliance with applicable Environmental Requirements.
  - f. There is no pending, or to the best of Customer's knowledge threatened, claim, action or proceeding by any Governmental Authority or third party against or in respect to the Customer or the Collateral asserting that either violates any Environmental Requirement.
3. Covenants. The Customer hereby covenants that:
- a. The Collateral will not be used for the generation, manufacture, storage, treatment, discharge or disposal of Hazardous Substances, except in strict compliance with Environmental Laws.
  - b. Customer shall vigorously defend any claim made against Customer or the Collateral arising out of or in connection with any Environmental Condition or violation of any Environmental Requirement.
  - c. Customer shall comply promptly and completely, at its sole cost and expense, with any and all Environmental Requirements.
  - d. In the event that Customer receives any such notice that it is in violation of any Environmental Requirement, it shall, within five calendar days, deliver to BB&T a copy of such notice and shall promptly and properly remedy any such violation at Customer's sole expense. The Customer shall, until remedying the violation to the satisfaction of the appropriate Governmental Authority, provide copies of all related and material correspondence, final reports, and studies to BB&T immediately upon issuance or receipt by Customer.
  - e. Customer shall not cause or permit to exist as a result of an intentional or unintentional action or omission on its part, the generation, manufacturing, refining, transportation, treatment, storage, handling or disposal of Hazardous Substances on any Collateral, other than in strict compliance with all applicable Environmental Requirements.

- f. Customer shall not cause or permit to exist any release, spill, leak, pumping, emission, pouring, emptying or dumping of Hazardous Substances, unless done pursuant to and in strict compliance with applicable Environmental Requirements.
- g. Any remedial action performed or permitted by Customer on or affecting the Collateral shall not include a deed restriction or the imposition of institutional engineering controls.

4. Indemnification/Hold Harmless. Customer hereby agrees to indemnify, defend and hold the Indemnified Parties harmless, at Customer's sole costs and expense, from and against any and all Losses arising from or in connection with Customer's failure, refusal or inability, for any reason, to fully observe or comply with any Environmental Requirements in any way affecting or originating from the Collateral. This indemnity is intended to be operable under 42 U.S.C 9607(e)(1), and any successor section thereof, and shall survive the foreclosure, release, or reconveyance of the Security Documents, whether by payment of any debt or any deed-in-lieu of foreclosure of the Collateral.

Customer hereby assigns to the Indemnified Parties any contractual indemnity or hold harmless agreement which benefits Customer relating to Environmental Conditions.

5. BB&T's Remedies. In the event that any of the Customer's representations or warranties shall prove to be materially false when made or Customer fails to satisfy any Environmental Requirement, BB&T, in its sole discretion, may (i) choose to undertake compliance with directives from Governmental Authorities and the Customer agrees to reimburse BB&T for all Losses associated with such compliance; or (ii) seek all legal and equitable remedies available to it including, but not limited to, injunctive relief compelling Customer to comply with all Environmental Requirements relating to the Collateral. BB&T's rights hereunder shall be in addition to all rights granted under the Security Documents. Payments by Customer under this Agreement shall not reduce Customer's obligations and liabilities under any of the Security Documents.

In the event BB&T undertakes compliance with Environmental Requirements which Customer failed to perform or which BB&T determines is necessary to permit the sale of the Collateral, Customer authorizes BB&T and/or BB&T's Agents to prepare and execute, on Customer's behalf, any manifest or other documentation relating to the removal and/or disposal of any Hazardous Substances from, at or on the Collateral. Customer acknowledges that BB&T does not own, or have a security interest in, any Hazardous Substances which exist on, originates from or affects the Collateral.

6. License. Customer hereby grants to BB&T an irrevocable license during the term of any of the Security Documents to permit BB&T to enter upon Customer's property for reasonable assessment, auditing and testing of the Collateral, with all costs and expenses to be borne by the Customer. The purpose of this irrevocable license is solely to permit BB&T to monitor compliance by Customer with applicable Environmental Requirements and to determine the existence of any Environmental Conditions.

Customer also grants to BB&T, until Customer's obligations under the Security Documents have been fully satisfied, continued unrestricted access in and to all of its existing and future records with respect to Environmental Requirements pertaining to the Collateral, whether or not located at the Collateral, whether or not in the possession of some third party, and whether written, photographic or computerized. BB&T shall have the right to view and copy all of Customer's records relating to environmental matters and to enter at reasonable times all buildings or facilities of Customer, its agents and representatives for such purpose. Customer and BB&T agree that this irrevocable license shall not be deemed to give BB&T any operational control over or the financial management of Customer

7. Limit on Liability. The liability of Customer under this Agreement shall in no way be limited or impaired by:
- a. the value of the Financial Transaction to, or received by, the Customer;
  - b. any amendment or modification of any Security Document;
  - c. any extensions of time for performance set forth in any Security Document;
  - d. any sale, assignment or foreclosure pursuant to any Security Document or any sale or transfer of all or part of any Collateral;

- e. any exculpatory provisions in any of the Security Documents limiting BB&T's recourse to the Collateral, or limiting BB&T's rights to a deficiency judgment against Customer;
  - f. the accuracy or inaccuracy of the representations and warranties made by Customer under any of the Security Documents;
  - g. the release of Customer, or any of them, or any other person or entity from performance of any term or condition of the Security Documents by operation of law, payment, BB&T's voluntary act, or otherwise or the release or substitution in whole or part of any security;
  - h. any delay on BB&T's part in exercising any right under this Agreement or any of the Security Documents; or
  - i. BB&T's failure to record or file, or the improper recording or filing of, any Security Document to perfect, protect, secure or insure any security interest or lien given in connection with the Financial Transaction.
8. Customer's Waiver. Customer waives any right or claim of right to cause a marshalling of its assets or to cause BB&T to proceed against any of the Collateral before proceeding under this Agreement against Customer, or any of them, or to proceed against any party in any particular order. Until all amounts due or payable to BB&T hereunder and under the Security Documents have been paid in full, Customer expressly waives and relinquishes all rights and remedies (including any rights of subrogation) to recover from any other party by reason of any payments made to BB&T by such party.

Customer further acknowledges and reaffirms, as if set forth here in their entirety, any other waiver provided for any of the Security Documents of any rights of Customer.

9. Miscellaneous.

- a. Notices. All notices or other written communications hereunder shall be given in accordance with the requirements of the Security Documents, except where noted otherwise herein.
- b. Successors and Assigns. The terms of this Agreement shall be binding upon and inure to the benefit of the Customer and BB&T and their respective heirs, personal representatives, successors and assigns; provided, however, that Customer will not, without the prior written consent of BB&T in each instance, assign, transfer or set over to any other person, in whole or in part, all or any part of Customer's obligations, duties or rights hereunder.
- c. Conflicts. In the event of any conflict between the provisions of this Agreement and those of any Security Document, the provisions of this Agreement shall control.
- d. No Oral Change. This Agreement, and any provisions hereof, may not be modified, waived, discharged or terminated except by an agreement in writing signed by the party against whom enforcement of any modification, waiver, discharge or termination is sought.
- e. Headings. The headings and captions of various paragraphs of this Agreement are for convenience of reference only and are not intended to define or limit, in any way, the scope or intent to the provisions hereof.
- f. Number and Gender. All pronouns refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons referred to may require.
- g. Joint and Several Liability. If Customer consists of more than one person or entity, the obligations and liabilities of each hereunder are joint and several.

- h. Release of Liability. Any one or more parties liable upon or in respect of this Agreement may be released without affecting the liability of any party not so released.
  - i. Rights Cumulative. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies which BB&T has under the Security Documents or would otherwise have at law or equity.
  - j. Inapplicable Provisions. If any term, condition or covenant of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such provision.
  - k. Governing Law. This Agreement shall be governed, construed, applied and enforced in accordance with the laws of the state in which the Collateral is located.
10. Acknowledgement. Customer acknowledges and agrees that BB&T has not advised, nor is BB&T required to advise, Customer as to any Environmental Requirement. Customer understands and agrees that it is responsible for complying with any and all Environmental Requirements.

IN WITNESS WHEREOF, the undersigned, on the day and year first written above, have caused this instrument to be executed.

WITNESS

**APPLIED OPTOELECTRONICS, INC.**

/s/ Jerry K. Hu  
Jerry K. Hu

By: /s/ Stefan Murry  
Stefan Murry, Chief Financial Officer

/s/ Jerry K. Hu  
Jerry K. Hu

By: /s/ David Kuo  
David Kuo, Vice President, General Counsel and Secretary