

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): September 30, 2019

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

Delaware
(State or 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 September 30, 2019, Applied Optoelectronics, Inc. (the "Company") executed a Fourth Amendment to Loan Agreement (which included amendments to the loan's Security Agreement and Schedule DD), a Note Modification Agreement and Addendum to Promissory Note (collectively, the "Fourth Amendment Documents"), with Branch Banking and Trust Company (the "Lender").

Under the terms of the Fourth Amendment Documents (i) the maximum commitment under the line of credit was reduced from \$25,000,000 to \$20,000,000; (ii) the maturity date of the line of credit was extended from September 28, 2020 to April 2, 2021; (iii) pricing of the unused line fee was adjusted to 0.30% per annum; and (iv) the Covenant Threshold Amount test created in the Third Amendment was removed and replaced with the requirement that if, at any time during any reporting period and pursuant to the most recent loan base report received by Lender, the principal balance outstanding under the line of credit exceeds the lesser of the approved maximum amount of the line of credit commitment amount or the collateral loan value reduced by the reserves, the Company shall immediately prepay the line of credit to the extent necessary to eliminate such excess.

Such reserves shall, at any time that the fixed charge coverage ratio for the loan is less than 1.5 to 1.0, tested for the period of twelve months ended on the applicable covenant measurement date, equal to an amount equal to seventy-five percent (75%) of the lesser of the line of credit commitment amount or collateral loan value reduced by the sum of (i) the principal balance outstanding under the line of credit, (ii) the letter of credit exposure reserve, and (iii) the availability reserve as determined by Lender from the most recent loan base report and otherwise in the sole discretion of Lender after consideration of collections.

The foregoing description of the Fourth Amendment to Loan Agreement and other Fourth Amendment Documents does not purport to be a complete statement of the parties' rights and obligations under such documents and is qualified in its entirety by reference to the full text of the Fourth Amendment Documents, dated September 30, 2019, copies of which are attached as Exhibit 10.1 through 10.3 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.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

- 10.1 [Fourth Amendment to Loan Agreement, dated September 30, 2019, between Applied Optoelectronics, Inc. and Branch Banking and Trust Company¹.](#)
- 10.2 [Note Modification Agreement, dated September 30, 2019, executed by Applied Optoelectronics, Inc.](#)
- 10.3 [Addendum To Promissory Note, dated September 30, 2019, executed by Applied Optoelectronics, Inc.](#)

¹ Portions of this exhibit have been omitted.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: October 4, 2019

APPLIED OPTOELECTRONICS, INC.

By: /s/ DAVID C. KUO

DAVID C. KUO

General Counsel and Secretary

CERTAIN INFORMATION HAS BEEN EXCLUDED FROM THE VERSION OF THIS EXHIBIT FILED WITH THE SECURITIES AND EXCHANGE COMMISSION BECAUSE IT (I) IS NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

**FOURTH AMENDMENT TO LOAN AGREEMENT AND
THIRD AMENDMENT TO SECURITY AGREEMENT**

THIS FOURTH AMENDMENT TO LOAN AGREEMENT AND THIRD AMENDMENT TO SECURITY AGREEMENT (this "Amendment") is made and entered into this 30th day of September, 2019, 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 amend the Loan Agreement and the Security Agreement to extend the term of the credit facility thereunder and in certain other respects, and Bank is willing to do so on the terms and subject to the conditions of this Amendment.

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 "\$25,000,000" contained in the paragraph entitled "**Line of Credit**" on page 1 of the Loan Agreement, and by substituting in lieu thereof a reference to "\$20,000,000".

(b) By deleting the reference to "September 28, 2020" contained in the paragraph entitled "**Line of Credit**" on page 1 of the Loan Agreement, and by substituting in lieu thereof a reference to "April 2, 2021".

(c) 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 equal to 0.30% per annum on the average daily unused amount of the Line of Credit for such calendar quarter calculated on the basis of a year of 360 days for the actual number of days elapsed.

(d) By adding the following new sentence to the end of the paragraph entitled "**Monthly Financial Statements**" on page 4 of the Loan Agreement:

Concurrently with the delivery of the foregoing, Borrower shall deliver to Bank information regarding Borrower's non-GAAP U.S. earnings for the twelve-month period then ending, and such other information as Bank shall reasonably request for purposes of calculating the Fixed Charge Coverage Ratio, in each case in form and substance reasonably satisfactory to Bank.

(e) Effective as of March 31, 2019, by deleting the third sentence of the paragraph entitled "**Officer Compliance Certificate**" on page 5 of the Loan Agreement, and by substituting in lieu thereof the following:

The OCC is due within the same number of days required for the delivery of Financial Statements for each fiscal quarter's end (except that the OCCs for the fiscal quarters ending on or about March 31, 2019 and June 30, 2019 are due on or before October 31, 2019) and for the fiscal year end.

(f) By deleting the sentence beginning "The Borrower covenants and agrees" contained in Section 5 of the Loan Agreement in its entirety, and by substituting in lieu thereof the following:

The Borrower covenants and agrees that during any period in which an Overadvance (as defined in Schedule DD) exists it shall maintain the following financial covenants and ratios all in accordance with GAAP unless otherwise specified:

(g) By deleting the reference to "\$25,000,000" in the definition of "**Availability**" contained in Section 10.01 of the Loan Agreement, and by substituting in lieu thereof a reference to "\$20,000,000".

(h) By deleting the definition of "**Covenant Threshold Amount**" from Section 10.01 of the Loan Agreement.

(i) By adding the following new definition of "**Covenant Availability Reserve**" to Section DD.01 of Schedule DD to the Loan Agreement in alphabetical order:

Covenant Availability Reserve. A reserve against Availability equal to (a) \$0, during any Availability Period, (b) \$0, at any time that the Fixed Charge Coverage Ratio is equal to or greater than 1.5 to 1.0, tested (for the period of twelve months ended on the applicable Covenant Measurement Date (as hereinafter defined)) as of the last day of the most recent month for which the Bank has received financial statements in compliance with the Loan Agreement (the "Covenant Measurement Date") as long as (whether or not an OCC was otherwise then due under this Agreement), Borrower has delivered to Bank an OCC with respect to the most recent month for which financial statements were due in accordance with Section 3.08 certifying, among other things, as to the Fixed Charge Coverage Ratio for the twelve-month period ending as of the last day of such month, and (c) at all other times, an amount equal to seventy-five percent (75%) of Availability (calculated solely for this purpose without giving effect to the Covenant Availability Reserve).

(j) By adding the phrase "including, without limitation, the Covenant Availability Reserve" immediately prior to the period at the end of the definition of "**Availability Reserve**" contained in Section DD.01 of Schedule DD to the Loan Agreement.

(k) 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 with a dollar value in excess of fifteen percent (15%) (or, in the case of Accounts due from (i) [***] Corporation and its subsidiary, [***] Corporation, collectively, fifty percent (50%), (ii) each of [***] LLC, [***], Inc., [***] Inc., and their respective affiliates, fifty percent (50%), (iii) [***], Inc. and its affiliates, forty-five percent (45%), (iv) each of [***], Inc. and [***] Corporation, and their respective affiliates, forty percent (40%), and (v) [***] LLC, thirty percent (30%) of Borrower's aggregate dollar amount of all outstanding Accounts. For the avoidance of doubt, the increased percentages described in clauses (i)-(v) above shall only apply with respect to the Account Debtors described therein, but not to other Persons such as, without limitation, counterparties to master purchase agreements or similar agreements with any such Account Debtor.

(l) By deleting the description of Accounts Aging contained in clause (a) of Section DD.06 of Schedule DD to the Loan Agreement, and by substituting in lieu thereof the following:

Accounts aging based upon invoice date by the twentieth (20th) day of each reporting period (which shall in any event identify the Accounts by Account Debtor with respect thereto, rather, than by other Persons such as, without limitation, counterparties to master purchase agreements or similar agreements with any such Account Debtor); provided, that at any time Borrower is required to deliver a monthly Loan Base Report as described above, Borrower shall deliver a monthly Accounts aging.

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

3. Amendment to Security Agreement. The Security Agreement is hereby amended by deleting clause (ii) following the phrase "This Security Agreement is entered into in connection with (check applicable items):" in the introductory section on page 1 of the Security Agreement in its entirety, and by substituting in lieu thereof the following:

[X] (ii) a Promissory Note dated September 28, 2017 (including, without limitation, all addenda, extensions, renewals, modifications and substitutions thereof, the "Note"), made by Debtor (the "Borrower") in favor of Secured Party, as modified on September 30, 2019 to be in the principal amount of \$20,000,000;

4. 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.

5. 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 Notes 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 September 27, 2019, the unpaid principal amount of the Line of Credit totaled \$20,000,000.

6. 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.

7. 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.

8. 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.

9. Conditions Precedent. The amendments contained in Sections 2 and 3 hereof shall be effective as of the date of this Amendment, 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 (together with addendum thereto), duly executed by Borrower, in form and substance satisfactory to Bank;
- (c) 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;
- (d) the amendment fee referenced in Section 10 hereof; and
- (e) all other approvals, opinions or documents as Bank may reasonably request.

10. Amendment Fee; 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 amendment fee in the amount of \$30,000 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.

11. 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.

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

13. 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.

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

15. 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.

16. 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.

17. 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:

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

[CORPORATE SEAL]

Accepted by Lender:

BRANCH BANKING AND TRUST COMPANY
("Bank")

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

EXHIBIT A

Schedule "EE" to BB&T Loan Agreement

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.
5. Attached hereto is the financial information relating to calculation of the Fixed Charge Coverage Ratio that Borrower is providing pursuant to Section 3.08 of the Loan Agreement, including information regarding Borrower's non-GAAP U.S. earnings as of the end of the most recent fiscal quarter.
6. I further certify that (a) regardless of whether it is being tested pursuant to Section 5 of the Loan Agreement, the Fixed Charge Coverage Ratio as of _____, 20__, is as set forth below, and (b) to the extent not provided pursuant to item 5 above, attached hereto is additional information relating to the calculation of the Fixed Charge Coverage Ratio:^[1]

Fixed Charge Coverage Ratio _____ To _____

^[1] To be completed only if, (i) Borrower desires for the Covenant Availability Reserve to be reduced to \$0 based on clause (b) of the definition thereof, or (ii) the Fixed Charge Coverage Ratio is being tested pursuant to Section 5 of the Loan Agreement.

7. 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	\$ _____
Total:	\$ _____

8. 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.

Exhibit 10.2

MAKER: Applied Optoelectronics, Inc.

BB&T

xxxxxxxx

ADDRESS: 13139 Jess Pirtle Blvd
Sugar Land, Texas
77478

NOTE MODIFICATION AGREEMENT

Account Number
000001
Note Number

\$20,000,000.00
Modified Principal Amount

\$60,000,000.00
Original Principal Amount

September 28, 2017
Original Date

September 30, 2019
Modification Date

This Note Modification Agreement (hereinafter referred to as "Agreement") is made and entered into as of this 30th day of September, 2019 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 Bank's Prime Rate plus ___% per annum to be adjusted ___ as 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 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.

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.

Principal and interest are payable as follows:

- Principal (plus any accrued interest not otherwise scheduled herein) is due in full at maturity on April 2, 2021.
- 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 October 5, 2019 and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on April 2, 2021.
- 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).

APPLICATION OF PAYMENTS. Unless otherwise expressly required by applicable law, payments will be applied to any unpaid collection costs, late and other charges and fees, accrued unpaid interest, and principal in such order as Bank may determine in its sole and absolute discretion.

INTEREST CALCULATION; REAMORITIZATION. 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; 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.

LATE FEE; RETURNED ITEM FEE. 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.

FEES AND CHARGES. 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. 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. All such charges shall be fully earned and non-refundable when due.

COLLATERAL. 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. 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.

ADDITIONAL 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 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: _____ Type of Agreement: _____

From: _____

Date: _____ Type of Agreement: _____

From: _____

Date: _____ Type of Agreement: _____

From: _____

The security interest in the collateral hereinafter described is hereby terminated with the consent of Bank and such collateral shall cease to serve as security for payment of the Promissory Note or this Agreement: Equipment of Borrower and certain real property of Borrower described on Exhibit A of that certain Deed of Trust dated March 30, 2018, by Borrower in favor of Bank, and more commonly referred to as 13139 Jess Pirtle Blvd, Sugar Land, Texas 77478.

JOINT AND SEVERAL OBLIGATION; NO NOVATION OR RELEASE. 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 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.

WAIVER BY BORROWER. 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.

DEFAULT RATE OF INTEREST; ATTORNEY'S FEES AND COSTS. 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.

FINANCIAL STATEMENTS. 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 Bank.

GOVERNING LAW; CHOICE OF VENUE. 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. 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 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.

NON-WAIVER BY BANK. 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 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 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.

MISCELLANEOUS. 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. 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. The headings in this Agreement are included for convenience only and shall neither affect the construction or interpretation of any provision in this Agreement nor affect any of the rights or obligations of the parties to this Agreement. Time is of the essence in the performance of this Agreement.

WAIVER OF JURY TRIAL. 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 AGREEMENT, THE PROMISSORY NOTE OR 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 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: xxxxxxx

Modification Amount: \$20,000,000.00

Note Number: 00001

Modification Date: September 30, 2019

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

WITNESS:

APPLIED OPTOELECTRONICS, INC.

Name of Corporation

By: _____

Print Name: _____

Name: **Stefan Murry**

Title: **Chief Financial Officer**

By: _____

Print Name: _____

Name: **David Kuo**

Title: **Vice President, General Counsel and Secretary**

BB&T

ADDENDUM TO PROMISSORY NOTE

BB&T Account No. xxxxxxxx

THIS ADDENDUM TO PROMISSORY NOTE ("Addendum") is hereby made a part of the Note Modification Agreement dated September 30, 2019, from **APPLIED OPTOELECTRONICS, INC.** ("Borrower") payable to the order of **BRANCH BANKING AND TRUST COMPANY** ("Bank") in the principal amount of \$20,000,000.00, 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 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) one and one-half percent (1.50%) per annum, which shall be adjusted monthly on the first day of each LIBOR Interest Period. 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 **Business Day** means a day other than a Saturday, Sunday, legal holiday or any other day when Bank is authorized or required by applicable law to be closed.

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

1.4 **LIBOR Interest Period** means the period, as may be elected by 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.

1.5 **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.

1.6 **One Month LIBOR** means the average rate quoted by Bloomberg Finance L.P., or any quoting service or commonly available source utilized by 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 sole 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%).

1.7 **Standard Rate** means, for any day, a rate per annum equal to Bank's announced Prime Rate Equivalent (as defined in the Loan Agreement dated September 28, 2017 between Borrower and Bank) 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 or by telecopy) 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 or by telecopy) 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:

Print Name: _____

Print Name: _____

APPLIED OPTOELECTRONICS, INC.

Name of Corporation

By: _____

Name: Stefan Murry
Title: Chief Financial Officer

By: _____

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