

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, DC 20549

**FORM 10-K**

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the fiscal year ended December 31, 2015

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from \_\_\_\_ to \_\_\_\_

Commission File Number 0-27460



Incorporated pursuant to the Laws of the State of Delaware  
Internal Revenue Service – Employer Identification No. 16-1387013  
2000 Technology Parkway, Newark, New York 14513  
(315) 332-7100

**Securities registered pursuant to Section 12(b) of the Act:**

Title of each class	Name of each exchange on which registered
Common Stock, par value \$0.10 per share	NASDAQ Global Market

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

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

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

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a small reporting company. Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company

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

The aggregate market value of the voting stock held by non-affiliates of the registrant as of the close of business on June 26, 2015 was approximately \$42,741,000, based on the closing price of the registrant's common stock on the NASDAQ Global Market on that date.

As of March 1, 2016, the registrant had 15,323,922 shares of common stock outstanding, net of 3,859,660 treasury shares.

#### DOCUMENTS INCORPORATED BY REFERENCE

Certain portions of the registrant's definitive proxy statement relating to the June 1, 2016 Annual Meeting of Shareholders are specifically incorporated by reference in Part III, Items 10, 11, 12, 13 and 14 of this Annual Report on Form 10-K, except for the equity plan information required by Item 12 as set forth herein.

**Ultralife Corporation**  
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## PART I

The Private Securities Litigation Reform Act of 1995 provides a "safe harbor" for forward-looking statements. This report contains certain forward-looking statements and information that are based on the beliefs of management as well as assumptions made by and information currently available to management. The statements contained in this report relating to matters that are not historical facts are forward-looking statements that involve risks and uncertainties, including, but not limited to, our reliance on a certain key customer; potential costs because of the warranties we supply with our products and services; our inability to comply with changes to the regulations for the shipment of our products; our efforts to develop new commercial applications for our products; the unique risks associated with our China operations; possible future declines in demand for the products that use our batteries or communications systems; reduced U.S. and foreign military spending including the uncertainty associated with government budget approvals; possible impairments of our goodwill and other intangible assets; possible breaches in security and other disruptions; variability in our quarterly and annual results and the price of our common stock; safety risks, including the risk of fire; negative publicity of lithium-ion batteries; the risk that we are unable to protect our proprietary and intellectual property; our resources being overwhelmed by our growth prospects; our ability to retain top management and key personnel; potential disruptions in our supply of raw materials and components; our exposure to foreign currency fluctuations; our customers' demand falling short of volume expectations in our supply agreements; rules and procedures regarding contracting with the U.S. and foreign governments; exposure to possible violations of the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act or other anti-corruption laws; our ability to utilize our net operating loss carryforwards; our ability to comply with government regulations regarding the use of "conflict minerals"; possible audits of our contracts by the U.S. and foreign governments and their respective defense agencies; known and unknown environmental matters; technological innovations in the non-rechargeable and rechargeable battery industries; and other risks and uncertainties, certain of which are beyond our control.

Although we base these forward-looking statements on assumptions that we believe are reasonable when made, we caution you that forward-looking statements are not guarantees of future performance and that our actual results of operations, financial condition and liquidity and the development of the industries in which we operate may differ materially from those made in or suggested by the forward-looking statements contained herein. In addition, even if our results of operations, financial condition and liquidity and the development of the industries in which we operate are consistent with the forward-looking statements contained in this document, those results or developments may not be indicative of results or developments in subsequent periods. Given these risks and uncertainties, you are cautioned not to place undue reliance on these forward-looking statements. Any forward-looking statements that we make herein speak only as of the date of those statements, and we undertake no obligation to update those statements or to publicly announce the results of any revisions to any of those statements to reflect future events or developments. Comparisons of results for current and any prior periods are not intended to express any future trends or indications of future performance, unless expressed as such, and should only be viewed as historical data. When used in this report, the words "anticipate", "believe", "estimate" or "expect" or words of similar import are intended to identify forward-looking statements. For further discussion of certain of the matters described above and other risks and uncertainties, see "Risk Factors" in Item 1A of this Annual Report on Form 10-K.

As used in this annual report, unless otherwise indicated, the terms "we", "our" and "us" refer to Ultralife Corporation ("Ultralife") and includes our wholly-owned subsidiaries, Ultralife Batteries (UK) Ltd.; ABLE New Energy Co.; Limited and its wholly-owned subsidiary ABLE New Energy Co., Ltd; Ultralife UK Limited and its wholly-owned subsidiary, Accutronics Limited; and our majority-owned joint venture Ultralife Batteries India Private Limited.

Dollar amounts throughout this Form 10-K Annual Report are presented in thousands of dollars, except for per share amounts.

### ITEM 1. BUSINESS

#### General

We offer products and services ranging from power solutions to communications and electronics systems to customers across the globe in the government, defense and commercial sectors. With an emphasis on strong engineering and a collaborative approach to problem solving, we design and manufacture power and communications systems including: rechargeable and non-rechargeable batteries, charging systems, communications and electronics systems and accessories and custom engineered systems. We continually evaluate ways to grow, including the design, development and sale of new products, expansion of our sales force to penetrate new markets and geographies, as well as seeking opportunities to expand through acquisitions.

We sell our products worldwide through a variety of trade channels, including original equipment manufacturers (“OEMs”), industrial and defense supply distributors and directly to U.S. and international defense departments. We enjoy strong name recognition in our markets under our Ultralife® Batteries, Lithium Power®, McDowell Research®, AMTI™, and ABLE™ brands. We have sales, operations and product development facilities in North America and Asia.

We report our results in two operating segments: Battery & Energy Products and Communications Systems. The Battery & Energy Products segment includes: lithium 9-volt, cylindrical and other non-rechargeable batteries, in addition to rechargeable batteries, uninterruptable power supplies, charging systems and accessories. The Communications Systems segment includes: RF amplifiers, power supplies, cable and connector assemblies, amplified speakers, equipment mounts, case equipment, man-portable systems, integrated communication systems for fixed or vehicle applications and communications and electronics systems design. We believe that reporting performance at the gross profit level is the best indicator of segment performance. As such, we report segment performance at the gross profit level and operating expenses as Corporate charges. (See Note 13 in the Notes to Consolidated Financial Statements.)

Our website address is [www.ultralifecorp.com](http://www.ultralifecorp.com). We make available free of charge via a hyperlink on our website (see Investor Relations link) our annual report on Form 10-K, proxy statements, quarterly reports on Form 10-Q, current reports on Form 8-K, and any amendments to those reports and statements as soon as reasonably practicable after such material is electronically filed with or furnished to the Securities and Exchange Commission (“SEC”). We will provide copies of these reports upon written request to the attention of Philip A. Fain, CFO, Treasurer and Secretary, Ultralife Corporation, 2000 Technology Parkway, Newark, New York, 14513. Our filings with the SEC are also available through the SEC website at [www.sec.gov](http://www.sec.gov) or at the SEC Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549 or by calling 1-800-SEC-0330.

### *Battery & Energy Products*

We manufacture and/or market a family of lithium manganese dioxide (Li-MnO<sub>2</sub>), lithium manganese dioxide carbon monofluoride (Li-CFx/MnO<sub>2</sub>) hybrid and lithium thionyl chloride (Li-SOCl<sub>2</sub>) non-rechargeable batteries including 9-volt, HiRate® cylindrical, ThinCell®, and other form factors. Applications for our 9-volt batteries include: smoke alarms, wireless security systems and intensive care monitors, among many other devices. Our HiRate® and ThinCell® lithium non-rechargeable batteries are sold primarily to the military and to OEMs in industrial markets for use in a variety of applications including radios, emergency radio beacons, search and rescue transponders, pipeline inspection gauges, portable medical devices and other specialty instruments and applications. Military applications for our non-rechargeable HiRate® batteries include: man-pack and survival radios, night vision devices, targeting devices, chemical agent monitors and thermal imaging equipment. Our lithium thionyl chloride batteries, sold under our ABLE and Ultralife brands as well as a private label brand, are used in a variety of applications including utility meters, wireless security devices, electronic meters, automotive electronics and geothermal devices. We believe that the chemistry of lithium batteries provides significant advantages over other currently available non-rechargeable battery technologies. These advantages include: higher energy density, lighter weight, longer operating time, longer shelf life and a wider operating temperature range. Our non-rechargeable batteries also have relatively flat voltage profiles, which provide stable power. Conventional non-rechargeable batteries, such as alkaline batteries, have sloping voltage profiles that result in decreasing power output during discharge. While the price of our lithium batteries is generally higher than alkaline batteries, the increased energy per unit of weight and volume of our lithium batteries allow for longer operating times and less frequent battery replacements for our targeted applications.

We believe that our ability to design and produce lightweight, high-energy lithium ion rechargeable batteries and charging systems in a variety of custom sizes, shapes, and thicknesses offers substantial benefits to our customers. We market lithium ion rechargeable batteries comprising cells manufactured by qualified cell manufacturers. Our rechargeable products can be used in a wide variety of applications including communications, medical and other portable electronic devices. Our Multi-Kilowatt Module lithium ion battery system is a large format battery utilizable for energy storage, battery back-up, and remote power applications. We believe that the chemistry of our lithium ion batteries provides significant advantages over other currently available rechargeable batteries. These advantages include: higher energy density, lighter weight, longer operating time, longer time between charges and a wider operating temperature range. Conventional rechargeable batteries such as nickel metal hydride and nickel cadmium are heavier, have lower energy and require more frequent charging.

Within this segment, we also seek to fund the development of new products that we hope will advance our technologies through contracts with both government agencies and private sector third parties.

We continue to obtain development contracts for intellectual property that we believe will enhance our efforts to commercialize new products that we develop. Revenues in this segment that pertain to technology contracts may vary widely each year, depending upon the quantity and size of contracts obtained.

Revenues for this segment for the year ended December 31, 2015 were \$65,272 and segment contribution (gross profit) was \$18,698.

#### *Communications Systems*

Under our McDowell Research and AMTI brands, we design and manufacture a line of communications systems and accessories to support military communications systems, including RF amplifiers, power supplies, power cables, connector assemblies, amplified speakers, equipment mounts, case equipment, man-portable systems and integrated communication systems for fixed or vehicle applications such as vehicle adapters and SATCOM systems. All systems are packaged to meet specific customer needs in rugged enclosures to allow for their use in extreme environments. We market these products to all branches of the U.S. military and approved foreign defense organizations, as well as, U.S. and international prime defense contractors.

Revenues for this segment for the year ended December 31, 2015 were \$11,155 and segment contribution (gross profit) was \$4,618.

#### *Corporate*

We allocate revenues and cost of sales between the above operating segments. The balance of income and expense, including but not limited to research and development expenses, and selling, general and administrative expenses, are reported as Corporate expenses.

There were no revenues for this category for the year ended December 31, 2015 and our corporate operating expenses were \$19,986.

See Management's Discussion and Analysis of Financial Condition and Results of Operations and the 2015 Consolidated Financial Statements and Notes thereto contained in this Annual Report on Form 10-K for additional information on the expenses referred to above. For information relating to total assets by segment, revenues for the last two years by segment, and contribution by segment for the last two years, see Note 13 in the Notes to Consolidated Financial Statements.

#### **History**

Ultralife was formed as a Delaware corporation in December 1990. In March 1991, we acquired certain technology and assets from Eastman Kodak Company ("Kodak") relating to its 9-volt lithium manganese dioxide non-rechargeable battery. In December 1992, we completed our initial public offering and became listed on NASDAQ.

In May 2006, we acquired ABLE New Energy Co., Ltd. ("ABLE"), an established manufacturer of lithium batteries located in Shenzhen, China, which broadened our product offering, including a wide range of lithium-thionyl chloride and lithium-manganese batteries, and provided additional exposure to new consumer markets.

In July 2006, we finalized the acquisition of substantially all the assets of McDowell Research, Ltd. ("McDowell"), a manufacturer of military communications accessories located originally in Waco, Texas. We relocated its operations to our Newark, New York facility during the second half of 2007, which enhanced our channels into the military communications area and strengthened our presence in global defense markets. In January 2012, we relocated these operations to our Virginia Beach, Virginia facility in order to gain operational efficiencies.

In March 2008, we formed a joint venture, named Ultralife Batteries India Private Limited ("India JV"), with our distributor partner in India. The India JV assembles Ultralife power solution products and manages local sales and marketing activities, serving commercial, government and defense customers throughout India. We have invested cash into the India JV, as consideration for our 51% ownership stake in the India JV.

In March 2009, we acquired the tactical communications products business of Science Applications International Corporation. The tactical communications products business (“AMTI”) designs, develops and manufactures tactical communications products including: amplifiers, man-portable systems, cables, power solutions and ancillary communications equipment, which are sold by Ultralife under the brand name AMTI. The acquisition strengthened our communications systems business and provided us with direct entry into the handheld radio/amplifier market, complementing Ultralife’s communications systems offerings.

In January 2016, we acquired Accutronics Limited (“Accutronics”), a U.K. corporation based in Newcastle-under-Lyme, U.K., a leading independent designer and manufacturer of smart batteries and charger systems for high-performance, feature-laden portable and handheld electronic devices. With a portfolio encompassing custom battery design, development and manufacturing for OEM’s; standard smart batteries, chargers and accessories; and pre-engineered batteries and power solutions for specific applications, Accutronics primarily serves the portable medical device market throughout Europe. Medical applications include digital imaging, ventilators, anesthesia, endoscopy, patient monitoring, cardio pulmonary care, oxygen concentration and aspiration. We acquired Accutronics to advance our strategy of commercial revenue diversification, to expand our geographical penetration, and to achieve revenue growth from new product development. We expect substantial sales synergies between Accutronics and our existing commercial battery business as we cross-sell our existing products and acquired Accutronics’ products to our respective customer bases.

## **Products, Services and Technology**

### *Battery & Energy Products*

A non-rechargeable battery is used until discharged and then replaced. The principal competing non-rechargeable battery technologies are carbon zinc, alkaline and lithium. We manufacture a range of non-rechargeable battery products based on lithium manganese dioxide, lithium manganese carbon mono-fluoride hybrid, and lithium thionyl chloride technologies.

We believe that the chemistry of lithium batteries provides significant advantages over currently available non-rechargeable battery technologies, which include: lighter weight, longer operating time, longer shelf life, and a wider operating temperature range. Our non-rechargeable batteries also have relatively flat voltage profiles, which provide stable power. Conventional non-rechargeable batteries, such as alkaline batteries, have sloping voltage profiles that result in decreasing power during discharge. While the prices for our lithium batteries are generally higher than commercially available alkaline batteries produced by others, we believe that the increased energy per unit of weight and volume of our batteries will allow longer operating time and less frequent battery replacements for our targeted applications. As a result, we believe that our non-rechargeable batteries are priced competitively with other battery technologies on a price per unit of energy or volume basis.

Our non-rechargeable products include the following product configurations:

*9-Volt Lithium Battery.* Our 9-volt lithium battery delivers a unique combination of the highest available energy density and stable voltage, which results in a longer operating life for the battery and, accordingly, fewer battery replacements. While our 9-volt battery price is generally higher than conventional 9-volt carbon zinc and alkaline batteries, we believe the enhanced operating performance and decreased costs associated with battery replacement make our 9-volt battery more cost effective than conventional batteries on a cost per unit of energy or volume basis when used in a variety of applications.

We market our 9-volt lithium batteries to OEM, distributor and retail markets including industrial electronics, safety and security, and medical. Typical applications include: smoke alarms, wireless alarm systems, bone growth stimulators, telemetry devices, blood analyzers, ambulatory infusion pumps and parking meters. A significant portion of the sales of our 9-volt battery is to major smoke alarm OEMs for use in their long-life smoke alarms. We also manufacture our 9-volt lithium battery under private label for a variety of companies. Additionally, we sell our 9-volt battery to the broader consumer market through national and regional retail chains and Internet retailers.

Our current 9-volt battery manufacturing capacity is adequate to meet forecasted customer demand over the next three years.

*Cylindrical Batteries.* Featuring high energy, wide temperature range, long shelf life and operating life, our cylindrical cells and batteries, based on lithium manganese dioxide, lithium manganese dioxide carbon monofluoride hybrid and lithium thionyl chloride technologies, represent some of the most advanced lithium power sources currently available. We market a wide range of cylindrical non-rechargeable lithium cells and batteries in various sizes under both the Ultralife HiRate and ABLE brands. These include: D, C, 5/4 C, 1/2 AA, 2/3 A and other sizes, which are sold individually as well as packaged into multi-cell battery packs, including our leading BA-5390 military battery, an alternative to the competing Li-SO<sub>2</sub> BA-5590 battery, and one of the most widely used battery types in the U.S. armed forces for portable applications. Our BA-5390 battery provides 50% to 100% more energy (mission time) than the BA-5590, and it is used in approximately 60 military applications. With the introduction of our lithium carbon mono-fluoride hybrid chemistry, we now offer a D-cell that has 100% more energy than the competing Li-SO<sub>2</sub> D-cell.

We market our line of lithium cells and batteries to the OEM market for commercial, defense, medical, asset tracking and search and rescue applications, among others. Significant commercial applications include pipeline inspection equipment, automatic reclosers and oceanographic devices. Asset tracking applications include RFID (Radio Frequency Identification) systems. Among the defense uses are manpack radios, night vision goggles, chemical agent monitors and thermal imaging equipment. Medical applications include: AED's (Automated External Defibrillators), infusion pumps and telemetry systems. Search and rescue applications include: ELT's (Emergency Locator Transmitters) for aircraft and EPIRB's (Emergency Position Indicating Radio Beacons) for ships.

*Thin Cell Batteries.* We manufacture a range of thin lithium manganese dioxide batteries under the Thin Cell<sup>®</sup> brand. Thin Cell batteries are flat, lightweight batteries providing a unique combination of high energy, long shelf life, wide operating temperature range and very low profile. We are currently marketing these batteries to OEMs for applications such as displays, wearable medical devices, toll passes, theft detection systems, and RFID devices.

In contrast to non-rechargeable batteries, after a rechargeable battery is discharged, it can be recharged and reused many times. Generally, discharge and recharge cycles can be repeated hundreds or thousands of times in rechargeable batteries, but the achievable number of cycles (cycle life) varies among technologies and is an important competitive factor. All rechargeable batteries experience a small, but measurable, loss in energy with each cycle. The industry commonly reports cycle life in the number of cycles a battery can achieve until 80% of the battery's initial energy capacity remains. In the rechargeable battery market, the principal competing technologies are nickel cadmium, nickel metal hydride and lithium ion (including lithium polymer) batteries. Rechargeable batteries are used in many applications, such as military radios, laptop computers, mobile telephones, portable medical devices, wearable devices and many other commercial, defense and consumer products.

Three important performance characteristics of a rechargeable battery are design flexibility, energy density and cycle life. Design flexibility refers to the ability of rechargeable batteries to be designed to fit a variety of shapes and sizes of battery compartments. Thin profile batteries with prismatic geometry provide the design flexibility to fit the battery compartments of today's electronic devices. Energy density refers to the total amount of electrical energy stored in a battery divided by the battery's weight and volume as measured in watt-hours per kilogram and watt-hours per liter, respectively. High energy density batteries generally are longer lasting power sources providing longer operating time and necessitating fewer battery recharges. High energy density and long achievable cycle life are important characteristics for comparing rechargeable battery technologies. Greater energy density will permit the use of batteries of a given weight or volume for a longer time period. Accordingly, greater energy density will enable the use of smaller and lighter batteries with energy comparable to those currently marketed. Lithium ion batteries, by the nature of their electrochemical properties, are capable of providing higher energy density than comparably sized batteries that utilize other chemistries and, therefore, tend to consume less volume and weight for a given energy content. Long achievable cycle life, particularly in combination with high energy density, is suitable for applications requiring frequent battery recharges, such as cellular telephones and laptop computers, and allows the user to charge and recharge many times before noticing a difference in performance. We believe that our lithium ion batteries generally have some of the highest energy density and longest cycle life available.

*Lithium Ion Cells and Batteries.* We market a variety of lithium ion cells and rechargeable batteries comprising cells manufactured by qualified cell manufacturers. These products are used in a wide variety of applications including communications, medical and other portable electronic devices.



*Battery Charging Systems and Accessories.* To provide our customers with complete power system solutions, we offer a wide range of rugged military and commercial battery charging systems and accessories including smart chargers, multi-bay charging systems and a variety of cables.

*Multi-Kilowatt Module.* Our Multi-Kilowatt Module lithium ion battery system is a large format battery utilizable for energy storage, battery back-up, and remote power applications. This product is a direct replacement of 2.5 kWh and greater lead acid batteries in 24V or 48V applications. It can be connected in multiples to obtain higher-voltages and is capable of over 3,000 cycles while maintaining 80% of its capacity.

*Technology Contracts.* Our technology contract activities involve the development of new products or the enhancement of existing products through contracts with both government agencies and other private sector third parties.

### *Communications Systems*

Under our McDowell Research and AMTI brands, we design and manufacture a line of communications systems and accessories to support military communications systems, including RF amplifiers, power supplies, power cables, connector assemblies, amplified speakers, equipment mounts, case equipment, man-portable systems and integrated communication systems for fixed or vehicle applications such as vehicle adapters and SATCOM systems. We package all systems to meet specific customer needs in rugged enclosures to allow their use in extreme environments.

We offer a wide range of military communications systems and accessories designed to enhance and extend the operation of communications equipment such as vehicle-mounted, manpack and handheld transceivers. Our communications products include the following product configurations:

*RF Amplifiers.* Our RF amplifiers include: 20, 50 and 75-watt amplifiers and 20-watt accessories and kits. These amplifiers are used to extend the range of manpack and handheld tactical transceivers and can be used on mobile or fixed site applications.

*Integrated Systems.* Our integrated systems include: vehicle mounted systems; SATCOM systems; rugged, deployable case systems; multiband transceiver kits; enroute communications cases; and radio cases. These systems give communications operators everything that is needed to provide reliable links to support C4ISR (Command, Control, Communications, Computers and Information, Surveillance and Reconnaissance).

*Power Systems.* Our power systems include: universal AC/DC power supplies with battery backup for tactical manpack and handheld transceivers; ROVER™ power supplies; interoperable power adapters and chargers; portable power systems; tactical combat and AC to DC power supplies, among many others. We can provide power supplies for virtually all tactical communications devices.

*Communications and Electronics.* Our communications and electronics services include the design, integration, and fielding of portable, mobile and fixed-site communications systems.

### **Sales and Marketing**

We employ a staff of sales and marketing personnel in North America, Europe and Asia. We sell our products and services directly to commercial customers, including OEMs, as well as government and defense agencies in the U.S. and abroad and have contractual arrangements with sales agents who market our products on a commission basis in defined territories. While OEM agreements and contracts contain volume-based pricing based on expected volumes, industry practices dictate that pricing is rarely adjusted retroactively when contract volumes are not achieved. Every effort is made to adjust future prices accordingly, but the ability to adjust prices is generally based on market conditions.

We also distribute some of our products through domestic and international distributors and retailers. Our sales are generated primarily from customer purchase orders. We have several long-term contracts with the U.S. government and other customers. These contracts do not commit the customers to specific purchase volumes, nor to specific timing of purchase order releases, and they include fixed price agreements over various periods of time. In general we do not believe our sales are seasonal, although we may sometimes experience seasonality for some of our military products based on the timing of government fiscal budget expenditures.

A significant portion of our business comes from sales of products and services to the U.S. and foreign governments through various contracts. These contracts are subject to procurement laws and regulations that specify policies and procedures for acquiring goods and services. The regulations also contain guidelines for managing contracts after they are awarded, including conditions under which contracts may be terminated, in whole or in part, at the government's convenience or for default. Failure to comply with the procurement laws or regulations can result in civil, criminal or administrative proceedings involving fines, penalties, suspension of payments, or suspension or debarment from government contracting or subcontracting for a period of time.

During the years ended December 31, 2015 and 2014, we had one major customer, a large defense primary contractor, which comprised 24% and 18% of our revenues, respectively, in each year. There were no other customers that comprised greater than 10% of our total revenues during these years.

In 2015, sales to U.S. and non-U.S. customers were approximately \$46,700 and \$ 29,700, respectively. In 2014, sales to U.S. and non-U.S. customers were approximately \$39,400 and \$27,100, respectively. For more information relating to revenues by country for the last two fiscal years and long-lived assets for the last two fiscal years by country of origin, see Note 13 in the Notes to the Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

#### *Battery & Energy Products*

We target sales of our non-rechargeable products to manufacturers of security and safety equipment, medical devices, search and rescue equipment, specialty instruments, point of sale equipment and metering applications, as well as users of military equipment. Our strategy is to develop sales and marketing alliances with OEMs and governmental agencies that utilize our batteries in their products, commit to cooperative research and development or marketing programs, and recommend our products for design-in or replacement use in their products. We are addressing these markets through direct contact by our sales and technical personnel, use of sales agents and stocking distributors, manufacturing under private label and promotional activities.

We seek to capture a significant market share for our products within our targeted OEM markets, which we believe, if successful will result in increased product awareness and sales at the end-user or consumer level. We are also selling our 9-volt battery to the consumer market through retail distribution through a number of national retailers. Most military procurements are done directly by the specific government organizations requiring products, based on a competitive bidding process. For those military procurements that are not bid, the procurements are typically subject to an audit of the product's underlying cost structure and associated profitability. Additionally, we are typically required to successfully meet contractual specifications and to pass various qualifications testing for the products under contract by the military. An inability by us to pass these tests for our new products in a timely fashion could have a material adverse effect on future growth prospects. When a government contract is awarded, there is a government procedure that allows for unsuccessful companies to formally protest the award if they believe they were unjustly treated in the government's bid evaluation process. A prolonged delay in the resolution of a protest, or a reversal of an award resulting from such a protest, could have a material adverse effect on our business, financial condition and results of operations.

We market our products to defense organizations in the U.S. and other countries. These efforts have resulted in us winning significant contracts. In September 2010, we were awarded a production contract by the Defense Logistics Agency for up to five years, with a maximum total potential of \$42,100, to provide our BA-5390 non-rechargeable lithium manganese dioxide batteries to the U.S. military. Production deliveries began in the first quarter of 2011. Through the completion of the contract in September 2015, we shipped BA-5390 batteries totaling \$10,000. Subsequent to the completion of the contract, we continued to receive orders for BA-5390 batteries from the Defense Logistics Agency that we shipped in 2015 and that are planned for shipment in 2016.

We target sales of our lithium ion rechargeable batteries and charging systems to OEM customers, as well as distributors and resellers focused on our target markets. We respond to RFPs to design products for OEMs, and believe that our design capabilities, product characteristics and solution integration will drive OEMs to incorporate our batteries into their product offerings, resulting in revenue growth opportunities for us.

We continue to expand our marketing activities as part of our strategic plan to increase sales of our rechargeable products for commercial, standby, defense and communications applications, as well as hand-held devices, wearable devices and other electronic portable equipment. A key part of this expansion includes increasing our design and assembly capabilities as well as building our network of distributors and value added distributors throughout the world.

At December 31, 2015 and 2014, our backlog related to Battery & Energy Products was approximately \$18,500 and \$14,100, respectively. The increase in our backlog related to Battery & Energy Products is primarily due to higher demand batteries from OEM's for our batteries for medical applications, primary batteries from the U.S. Department of Defense, chargers from an international large defense prime contractor and our new products in other commercial markets. A large majority of the 2015 backlog is related to orders that are expected to ship throughout 2016.

### *Communications Systems*

We target sales of our communications systems, which include power solutions and accessories to support communications systems such as RF amplifiers, power supplies, power cables, connector assemblies, amplified speakers, equipment mounts, case equipment and integrated communication systems, to military OEMs and U.S. and allied foreign militaries. We sell our products directly and through authorized distributors to OEMs and to defense organizations in the U.S. and internationally. We market our products to defense organizations and OEMs in the U.S. and internationally.

At December 31, 2015 and 2014, our backlog related to Communications Systems orders was approximately \$8,400 and \$700, respectively. The increase in our backlog related to Communications Systems orders is driven primarily by the award of an \$8,200 order through an OEM for the U.S. Army for our new McDowell Research Corporation ("MRC") product – Vehicle Installed Power Enhanced Rifleman Appliqué ("VIPER"), as well as integrated systems supporting OEMs. The 2015 backlog is related to orders that are expected to ship throughout 2016.

### **Patents, Trade Secrets and Trademarks**

We rely on licenses of technology as well as our patented and unpatented proprietary information, know-how and trade secrets to maintain and develop our competitive position. Despite our efforts to protect our proprietary information, there can be no assurance that others will neither develop the same or similar information independently nor obtain access to our proprietary information. In addition, there can be no assurance that we would prevail if we asserted our intellectual property rights against third parties, or that third parties will not successfully assert infringement claims against us in the future. We believe, however, that our success depends more on the knowledge, ability, experience and technological expertise of our employees, than on the legal protection that our patents and other proprietary rights may or will afford.

We hold seven patents issued in the U.S. and two patents issued in Mexico. We believe our patents protect technology that makes automated production more cost-effective and protects important competitive features of our products. However, we do not consider our business to be dependent on patent protection.

As part of our employment commencement process, our employees are required to enter into agreements providing for confidentiality of certain information and the assignment of rights to inventions made by them while employed by us. These agreements also contain certain noncompetition and nonsolicitation provisions effective during the employment term and for varying periods thereafter depending on position and location. There can be no assurance that we will be able to enforce these agreements. All of our employees agree to abide by the terms of a Code of Ethics policy that provides for the confidentiality of certain information received during the course of their employment. Nevertheless, the enforceability of such agreements is subject to public policy limitations that vary from state to state so we cannot be assured that they will be enforceable in accordance with their terms if at all.

Trademarks are an important aspect of our business. We sell our products under a number of trademarks, which we own or use under license. The following are registered trademarks of ours: Ultralife®, Ultralife Thin Cell®, Ultralife HiRate®, The New Power Generation®, LithiumPower®, SmartCircuit®, We Are Power®, AMTI®, ABLE®, McDowell Research®, and Max Juice For More Gigs®.

## **Manufacturing and Raw Materials**

We manufacture our products from raw materials and component parts that we purchase. Our manufacturing facilities in Newark, New York are ISO 9001:2008, ISO 14001, and ISO 13485 certified. Our manufacturing facilities in Shenzhen, China are ISO 9001:2008, ISO 14001 and ISO 13485 certified. Our manufacturing facilities in Virginia Beach, Virginia are ISO 9001:2008 certified.

We expect our future raw material purchases to fluctuate based on our knowledge regarding the timing of customer orders, the related need to build inventory in anticipation of orders and actual shipment dates.

### *Battery & Energy Products*

Our Newark, New York and Shenzhen, China facilities have the capacity to produce cylindrical cells, 9-volt batteries, and thin cells. Capacity, however, is also related to individual operations, and product mix changes can produce bottlenecks in an individual operation, constraining overall capacity. We have acquired new machinery and equipment in areas where production bottlenecks have resulted in the past and we believe that we have sufficient capacity in these areas. We continually evaluate our requirements for additional capital equipment, and we believe that the planned increases will be adequate to meet foreseeable customer demand.

Certain materials used in our products are available only from a single source or a limited number of sources. Additionally, we may elect to develop relationships with a single or limited number of sources for materials that are otherwise generally available. Although we believe that alternative sources are available to supply materials that could replace materials we use and that, if necessary, we would be able to redesign our products to make use of an alternative product, any interruption in our supply from any supplier that serves currently as our sole source could delay product shipments and adversely affect our financial performance and relationships with our customers. Although we have experienced interruptions of product deliveries by sole source suppliers, which have not had a material adverse effect on us, we cannot assure that they would not in the future. All other raw materials utilized by us are readily available from many sources.

We use various utilities to provide heat, light and power to our facilities. We continue to seek ways to reduce utility costs and will initiate energy-saving projects at times to assist in this effort. It is possible, however, that rising energy costs may have an adverse effect on our financial results.

We believe that the raw materials and components utilized for our rechargeable batteries are readily available from many sources. Although we believe that alternative sources are available to supply materials and components that could replace materials or components we use, any interruption in our supply from any supplier that serves currently as our sole source could delay product shipments and adversely affect our financial performance and relationships with our customers.

Our Newark, New York facility has the capacity to produce significant volumes of rechargeable batteries, as this operation generally assembles battery packs and chargers and is limited only by physical space and is not constrained by manufacturing equipment capacity.

The total carrying value of our Battery & Energy Products inventory, including raw materials, work in process and finished goods, amounted to approximately \$12,534 and \$14,718 as of December 31, 2015 and 2014, respectively.

### *Communications Systems*

In general, we believe that the raw materials and components utilized by us for our communications accessories and systems, including RF amplifiers, power supplies, cables, repeaters and integration kits, are available from many sources. Although we believe that alternative sources are available to supply materials and components that could replace materials or components we use, any interruption in our supply from any supplier that serves currently as our sole source could delay product shipments and adversely affect our financial performance and relationships with our customers.

Our Virginia Beach, Virginia facility has the capacity to produce communications products and systems. This operation generally assembles products and is limited only by physical space and is not constrained by manufacturing equipment capacity.

The total carrying value of our Communications Systems inventory, including raw materials, work in process and finished goods, amounted to approximately \$11,280 and \$11,368 as of December 31, 2015 and 2014, respectively.

## **Research and Development**

We concentrate significant resources on research and development activities to improve our technological capabilities and to design new products for customers' applications. We conduct our research and development in Newark, New York; Virginia Beach, Virginia; Tallahassee, Florida and Shenzhen, China. During 2015 and 2014, we expended \$6,112 and \$5,648, respectively, on research and development, including \$509 and \$315, respectively, on customer sponsored research and development activities, which are included in cost of goods sold. Research and development expense was \$5,603 and \$5,333 in 2015 and 2014, respectively. We expect that research and development expenditures in the future will be fairly consistent with those in 2015, as we anticipate that new product development initiatives will drive our growth. As in the past, we will continue to make funding decisions for our research and development efforts based upon strategic demand for customer applications.

### *Battery & Energy Products*

We continue to internally develop non-rechargeable cells and batteries with the goal of broadening our product offering to our customers.

We continue to internally develop our rechargeable product portfolio, including batteries, battery management systems, cables and charging systems, as our customers' needs for portable power continue to grow and new technologies become available.

The U.S. government sponsors research and development programs designed to improve the performance and safety of existing battery systems and to develop new battery systems.

### *Communications Systems*

We continue to internally develop a variety of communications accessories and systems for the global defense market to meet the ever-changing demands of our customers.

## **Safety; Regulatory Matters; Environmental Considerations**

Certain of the materials utilized in our batteries may pose safety problems if improperly used, stored, or handled. We have designed our batteries to minimize safety hazards both in manufacturing and use.

The transportation of non-rechargeable and rechargeable lithium batteries is regulated in the U.S. by the Department of Transportation's Pipeline and Hazardous Materials Safety Administration ("PHMSA"), and internationally by the International Civil Aviation Organization ("ICAO") and corresponding International Air Transport Association ("IATA") Dangerous Goods Regulations and the International Maritime Dangerous Goods Code ("IMDG"), and other country specific regulations. These regulations are based on the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations and the United Nations Manual of Tests and Criteria. We currently ship our products pursuant to PHMSA, ICAO, IATA, IMDG and other country specific hazardous goods regulations. The regulations require companies to meet certain testing, packaging, labeling, marking and shipping paper specifications for safety reasons. We have not incurred, and do not expect to incur, any significant costs in order to comply with these regulations. We believe we comply with all current U.S. and international regulations for the shipment of our products, and we intend and expect to comply with any new regulations that are imposed. We have established our own testing facilities to ensure that we comply with these regulations. However, if we are unable to comply with any such new regulations, or if regulations are introduced that limit our or our customers' ability to transport our products in a cost-effective manner, this could have a material adverse effect on our business, financial condition and results of operations.

The European Union's Restriction of Hazardous Substances Directive ("the EU RoHS Directive") places restrictions on the use of certain hazardous substances in electrical and electronic equipment. All applicable products sold in the European Union market must pass RoHS compliance. While this directive does not apply to batteries and does not currently affect our defense products, should any changes occur in the directive that would affect our products, we intend and expect to comply with any new regulations that are imposed. However, we cannot assure that the cost of complying with such new regulations would not have a material adverse effect on us. Our commercial chargers are substantially in compliance with the EU RoHS Directive.

The European Union's Battery Directive "on batteries and accumulators and waste batteries and accumulators" (the "EU Battery Directive") is intended to cover all types of batteries regardless of their shape, volume, weight, material composition or use. It is aimed at reducing mercury, cadmium, lead and other metals in the environment by minimizing the use of these substances in batteries and by treating and re-using old batteries. The EU Battery Directive applies to all types of batteries except those used to protect European Member States' security, for military purposes, or sent into space. To achieve these objectives, the EU Battery Directive prohibits the marketing of some batteries containing hazardous substances. It establishes schemes aimed at high level of collection and recycling of batteries with quantified collection and recycling targets. The EU Battery Directive sets out minimum rules for producer responsibility and provisions with regard to labeling of batteries and their removability from equipment. The EU Battery Directive requires product markings for batteries and accumulators to provide information on capacity and to facilitate reuse and safe disposal. We currently ship our products pursuant to the requirements of the EU Battery Directive.

This EU Battery Directive requires that producers or importers of particular classes of electrical goods are financially responsible for specified collection, recycling, treatment and disposal of past and future covered products. This directive assigns levels of responsibility to companies doing business in European Union markets based on their relative market share. This directive calls on each European Union member state to enact enabling legislation to implement the directive. As additional European Union member states pass enabling legislation our compliance system should be sufficient to meet such requirements. Our current estimated costs associated with our compliance with these directives based on our current market share are not significant. However, we continue to evaluate the impact of these directives as European Union member states implement guidance, and actual costs could differ from our current estimates.

China's "Management Methods for Controlling Pollution Caused by Electronic Information Products Regulation" ("China RoHS") provides a two-step, broad regulatory framework including hazardous substance restrictions similar to those imposed by the EU RoHS Directive. China RoHS applies to methods for the control and reduction of pollution and other public hazards to the environment caused during the production, sale, and import of electronic information products ("EIP") in China. Currently, only the first step of the regulatory framework of China RoHS, which details marking and labeling requirements under Standard SJT11364-2006 ("Marking Standard"), is in effect. However, the methods under China RoHS only apply to EIP placed in the marketplace in China. Additionally, the Marking Standard does not apply to components sold to OEMs for use in other EIPs. Our sales in China are limited to sales to OEMs and to distributors who supply to OEMs. Should our sales strategy change to include direct sales to end-users, we believe our compliance system is sufficient to meet our requirements under China RoHS. Our current estimated costs associated with our compliance with this regulation based on our current market share are not significant. However, we continue to evaluate the impact of this regulation, and actual costs could differ from our current estimates.

National, state and local laws impose various environmental controls on the manufacture, transportation, storage, use and disposal of batteries and of certain chemicals used in the manufacture of batteries. Although we believe that our operations are in material compliance with current environmental regulations, there can be no assurance that changes in such laws and regulations will not impose costly compliance requirements on us or otherwise subject us to future liabilities. There can be no assurance that additional or modified regulations relating to the manufacture, transportation, storage, use and disposal of materials used to manufacture our batteries or restricting disposal of batteries will not be imposed or that such regulations will not have a material adverse effect on our business, financial condition and results of operations. In 2015 and 2014, we spent approximately \$155 and \$45, respectively, on environmental compliance, including costs to properly dispose of potentially hazardous waste.

Since non-rechargeable and rechargeable lithium battery chemistries react adversely with water and water vapor, certain of our manufacturing processes must be performed in a controlled environment with low relative humidity. Our Newark, New York and Shenzhen, China facilities contain dry rooms or glove box equipment, as well as specialized air-drying equipment.

In addition to the environmental regulations previously described, our products are subject to U.S. and international laws and regulations governing international trade and exports including but not limited to the International Traffic in Arms Regulations (“ITAR”), the Export Administration Regulations (“EAR”) and trade sanctions against embargoed countries.

The ITAR is a set of United States government regulations that control the export and import of defense-related articles and services on the United States Munitions List. These regulations implement the provisions of the Arms Export Control Act, and are described in the Code of Federal Regulations. The Department of State Directorate of Defense Trade Controls interprets and enforces ITAR. Its goal is to safeguard U.S. national security and further U.S. foreign policy objectives.

The related EAR are enforced and interpreted by the Bureau of Industry and Security in the Commerce Department. The Department of Defense is also involved in the review and approval process. Inspections in support of import and export laws are performed at border crossings is performed by Customs and Border Protection, an agency of the Department of Homeland Security.

Products and services developed and manufactured in our foreign locations are subject to the export and import controls of the nation in which the foreign location operates.

We believe we are in material compliance with these domestic and international export regulations. However, failure of compliance could have a material adverse effect on our business through possible fines, denial of export privileges, or loss of customers. Further, while we are not aware of any proposed changes to these regulations, any change in the scope or enforcement of export or import regulations or related legislation could have a material adverse effect on our business through increased costs of compliance or reduction in the international growth prospects available to us.

Our future estimated costs associated with our compliance with ITAR, EAR, and the foreign export and import controls we are subject to based on our current sales volumes are not significant. However, we continue to evaluate the impact of these regulations, and actual costs could differ from our current estimates.

#### *Battery & Energy Products*

Our non-rechargeable battery products incorporate lithium metal, which reacts with water and may cause fires if not handled properly. In the past, we have experienced fires that have temporarily interrupted certain manufacturing operations. We believe that we have adequate fire suppression systems and insurance, including business interruption insurance, to protect against the occurrence of fires and fire losses in our facilities.

Our 9-volt battery, among other sizes, is designed to conform to the dimensional and electrical standards of the American National Standards Institute. Several of our products are recognized by authorized certification bodies such as Underwriters Laboratories, Intertek and SGS.

#### *Communications Systems*

We are not currently aware of any regulatory requirements regarding the disposal of communications products.

## Corporate

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 Section 1502 (the “Dodd-Frank Act”) requires public companies to disclose whether tantalum, tin, gold and tungsten, commonly known as “conflict minerals,” are necessary to the functionality or production of a product manufactured by a public company and if those elements originated from armed groups in the Democratic Republic of Congo or adjoining countries. To comply with the Dodd-Frank Act, as implemented by SEC rules, we are required to perform due diligence inquiries of our suppliers to determine whether or not our products contain such minerals and from which countries and source (smelter) the minerals were obtained. Our annual report on Form SD was filed by the statutory due date of June 1, 2015 for the 2014 calendar year and we continue to implement appropriate measures with our suppliers in order to better ascertain the origin of the conflict minerals in our products.

## Competition

Competition in both the battery and communications systems markets is, and is expected to remain, intense. The competition ranges from development stage companies to major domestic and international companies, many of which have financial, technical, marketing, sales, manufacturing, distribution and other resources significantly greater than ours. We compete against companies producing batteries as well as companies producing communications systems. We compete on the basis of design flexibility, performance, price, reliability and customer support. There can be no assurance that our technologies and products will not be rendered obsolete by developments in competing technologies or services that are currently under development or that may be developed in the future or that our competitors will not market competing products and services that obtain market acceptance more rapidly than ours.

Historically, although other entities may attempt to take advantage of the growth of the battery market, the lithium battery cell industry has certain technological and economic barriers to entry. The development of technology, equipment and manufacturing techniques and the operation of a facility for the automated production of lithium battery cells require large capital expenditures, which may deter new entrants from commencing production. Through our experience in battery cell manufacturing, we have also developed significant expertise in the non-rechargeable battery market, which we believe would be difficult to reproduce without substantial time and expense.

## Employees

As of December 31, 2015, we employed a total of 691 permanent and temporary employees: 35 in research and development, 586 in production and 70 in sales and administration. None of our employees are represented by a labor union.

## ITEM 1A. RISK FACTORS

Our business faces many risks. As such, prospective investors and shareholders should carefully consider and evaluate all of the risk factors described below as well as other factors discussed in this Annual Report on Form 10-K and in our other filings with the SEC. Any of these factors could adversely affect our business, financial condition and results of operations. Additional risks and uncertainties that are not currently known to us or that are not currently believed by us to be material may also harm our business operations and financial results. These risk factors may change from time to time and may be amended, supplemented, or superseded by updates to the risk factors contained in periodic reports on Form 10-Q and Form 10-K that we file with the SEC in the future.

*A significant portion of our revenues is derived from a certain key customer.*

During the years ended December 31, 2015 and 2014, we had one major customer, a large defense primary contractor, which comprised 24% and 18% of our revenues, respectively in each year. There were no other customers that comprised greater than 10% of our total revenues during these years. While we consider our relationship with this prime contractor to be good, the reduction, delay or cancellation of orders from this customer or this customer’s insolvency / inability to pay, for any reason, would reduce our revenue and operating income and could materially and adversely affect our business, operating results and financial condition in other ways.



*We may incur significant costs because of the warranties we supply with our products and services.*

With respect to our battery products, we typically offer warranties against any defects in manufacture or workmanship for a period up to one year from the date of purchase. With respect to our communications systems products, we now offer up to a three-year warranty. We provide for a reserve for these potential warranty expenses, which is based on an analysis of historical warranty issues. There is no assurance that future warranty claims will be consistent with past history, and in the event we experience a significant increase in warranty claims, there is no assurance that our reserves will be sufficient. This could have a material adverse effect on our business, financial condition and results of operations.

*Any inability to comply with changes to the regulations for the shipment of our products could limit our ability to transport our products to customers in a cost-effective manner and reduce our operating income and margins.*

The transportation of lithium batteries is regulated by the International Civil Aviation Organization (“ICAO”) and corresponding International Air Transport Association (“IATA”) Dangerous Goods Regulations and the International Maritime Dangerous Goods Code (“IMDG”) and in the U.S. by the Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (“PHMSA”). These regulations are based on the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations and the United Nations Manual of Tests and Criteria. We currently ship our products pursuant to ICAO, IATA and PHMSA hazardous goods regulations. These regulations require companies to meet certain testing, packaging, labeling and shipping specifications for safety reasons. We have not incurred, and do not expect to incur, any significant costs in order to comply with these regulations. We believe we comply with all current U.S. and international regulations for the shipment of our products, and we intend and expect to comply with any new regulations that are imposed. We have established our own testing facilities to ensure that we comply with these regulations. If we are unable to comply with the new regulations, however, or if regulations are introduced that limit our ability to transport our products to customers in a cost-effective manner, this could reduce our operating income and margins, and have other material adverse effects on our business, financial condition and results of operations.

*Our efforts to develop new commercial applications for our products could be prolonged or could fail.*

Although we develop certain products for new commercial applications, we cannot assure that our products will be accepted due to the highly competitive nature of the business. There are many new product and technology entrants into the marketplace, and we must continually reassess the market segments in which our products can be successful and seek to engage customers in those segments that will adopt our products for use in their products. In addition, these companies must be successful with their products in their markets for us to gain increased business. Increased competition, failure to gain customer acceptance of products, the introduction of competitive technologies or failure of our customers in their markets could have a further adverse effect on our business and reduce our revenue and operating income.

*Our operations in China are subject to unique risks and uncertainties.*

Our operating facility in China presents risks including, but not limited to, changes in local regulatory requirements, changes in labor laws, local wage laws, environmental regulations, taxes and operating licenses, compliance with U.S. regulatory requirements, including the Foreign Corrupt Practices Act, uncertainties as to application and interpretation of local laws and enforcement of contract and intellectual property rights, currency restrictions, currency exchange controls, fluctuations of currency, and currency revaluations, eminent domain claims, civil unrest, power outages, water shortages, labor shortages, labor disputes, increase in labor costs, rapid changes in government, economic and political policies, political or civil unrest, acts of terrorism, or the threat of boycotts, and other civil disturbances that are outside of our control. Any such disruptions could depress our earnings and have other material adverse effects on our business, financial condition and results of operations.

For example, during 2014 the landlord for our China facility informed us that the local village government in Shenzhen was exercising its right of eminent domain and that the lease for our facility would not be extended past its expiration in October 2014 due to zoning changes. Accordingly, we developed and executed a plan which we completed in 2015 to find a replacement facility, entered into a five-year lease, negotiated compensation from the local government for our forfeited leasehold improvements and move expenses, refurbished the replacement facility to meet our operational needs and relocated all of our operations and employees to the new facility. While this situation was handled on time, on plan and with no known disruption to our business, there can be no assurances that other situations posing risks to the business will be successfully remediated to the same extent.

*A decline in demand for products using our batteries or communications systems could reduce demand for our products and/or our products could become obsolete.*

A substantial portion of our business depends on the continued demand for products using our batteries and communications systems sold by our customers, including original equipment manufacturers. Our success depends significantly upon the success of those customers' products in the marketplace. We are subject to many risks beyond our control that influence the success or failure of a particular product or service offered by a customer, including:

- competition faced by the customer in its particular industry,
- market acceptance of the customer's product or service,
- the engineering, sales, marketing and management capabilities of the customer,
- technical challenges unrelated to our technology or products faced by the customer in developing its products or services, and
- the financial and other resources of the customer.

The market for our products is characterized by changing technology and evolving industry standards, often resulting in product obsolescence or short product lifecycles. Although we believe that our products are comprised of state-of-the-art technology, there can be no assurance that competitors will not develop technologies or products that would render our technologies and products obsolete or less marketable. Many of the companies with which we compete have substantially greater resources than we do, and some have the capacity and volume of business to be able to produce their products more efficiently than we can. In addition, these companies are developing or have developed products using a variety of technologies that are expected to compete with our technologies. If these companies successfully market their products in a manner that renders our technologies obsolete, this would reduce our revenue and operating income and could have other material adverse effects on our business, financial condition and results of operations.

*Reductions in U.S. and foreign military spending could continue to have a material adverse effect on our business, financial condition and results of operations.*

A significant portion of our revenues is derived from contracts with the U.S. and foreign militaries or OEMs that supply the U.S. and foreign militaries. In the years ended December 31, 2015 and 2014, approximately \$42,717 or 56% and \$36,412 or 55%, respectively, of our revenues were comprised of sales made directly or indirectly to the U.S. and foreign militaries.

While significant gains have been made in commercial markets with our Battery & Energy Products business, we are still highly dependent on sales to U.S. Government customers. The amounts and percentages of our net revenue that was derived from sales to U.S. Government customers, including the Department of Defense, whether directly or through prime contractors, was approximately \$36,700 or 48% in 2015 and \$27,100 or 41% in 2014. Therefore, any significant disruption or deterioration of our relationship with the U.S. Government or any prime defense contractor could still significantly reduce our revenue. Our competitors continuously engage in efforts to expand their business relationships with the U.S. Government and will continue these efforts in the future, and the U.S. Government may choose to use other contractors.

Budget and appropriations decisions made by the U.S. Government, including possible future sequestration periods or other similar formulaic reductions in federal expenditures, are outside of our control and have long-term consequences for our business. A continued decline in U.S. military expenditures could result in a reduction in the military's demand for our products, which could have a material adverse effect on our business, financial condition and results of operations.

*Any impairment of goodwill and indefinite-lived intangible assets, and other intangible assets, could negatively impact our results of operations.*

Our goodwill and indefinite-lived intangible assets are subject to an impairment test on an annual basis and are also tested whenever events and circumstances indicate that goodwill and/or indefinite-lived intangible assets may be impaired. Any excess goodwill and/or indefinite-lived intangible assets value resulting from the impairment test must be written off in the period of determination. Intangible assets (other than goodwill and indefinite-lived intangible assets) are generally amortized over the useful life of such assets. In addition, from time to time, we may acquire or make an investment in a business which will require us to record goodwill based on the purchase price and the value of the acquired tangible and intangible assets. We may subsequently experience unforeseen issues with such business which adversely affect the anticipated results of the business or value of the intangible assets and trigger an evaluation of the recoverability of the recorded goodwill and intangible assets for such business. There is a possibility that our goodwill and other intangible assets, particularly in our Communications Systems business, could be impaired should there be a significant change in our internal forecasts and other assumptions we use in our impairment analysis. Future determinations of significant write-offs of goodwill or intangible assets as a result of an impairment test or any accelerated amortization of other intangible assets could have a negative impact, although not affecting cash, on our results of operations and financial condition.

We have completed our annual impairment analysis for goodwill and indefinite-lived intangible assets, in accordance with the applicable accounting guidance, and have concluded that we do not have any impairment of goodwill, but have recorded a non-cash impairment amounting to \$150 of our McDowell Research Corporation trademark in our Communications Systems business at December 31, 2015. Our impairment analysis was primarily focused on the goodwill and intangible assets pertaining to our Communications Systems business. The non-cash impairment charge was caused by time delays in the awarding by government and defense customers in recent years of certain large projects in our pipeline. The goodwill and net book value of intangible assets amounts to \$17,915 for the segment at December 31, 2015. Our testing took into account our large opportunity pipeline for Communications Systems products as well as the maturity of the opportunities, and assumed the future award and estimated timing of certain major projects based on our knowledge of the status of these projects and the probability of award at the current time. Until an award is actually consummated and resulting purchase orders are issued, there are no guarantees that the underlying projects will contribute to revenues and operating income to justify the level of goodwill and intangible assets on our balance sheet. Accordingly, we will continue our practice of updating our analysis as warranted on an ongoing basis.

*Breaches in security and other disruptions, could diminish our ability to generate revenues or contain costs and negatively impact our business in other ways.*

We face certain security threats, including threats to our information technology infrastructure, attempts to gain access to our proprietary or classified information, and threats to physical and cyber security. Our information technology networks and related systems are critical to the operation of our business and essential to our ability to successfully perform day-to-day operations. The risks of a security breach, cyber attack, cyber intrusion, or disruption, particularly through actions taken by computer hackers, foreign governments and cyber terrorists, have increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. Although we have acquired and developed systems and processes designed to protect our proprietary or classified information, they may not be sufficient and the failure to prevent these types of events could disrupt our operations, require significant management attention and resources, and could negatively impact our reputation among our customers and the public, which could have a negative impact on our financial condition, and weaken our results of operations and liquidity.

*Our quarterly and annual results and the price of our common stock could fluctuate significantly.*

Our future operating results may vary significantly from quarter-to-quarter and from year-to-year depending on factors such as the timing and shipment of significant orders, new product introductions, major project wins, U.S. and foreign government demand, delays in customer releases of purchase orders, delays in receiving raw materials from vendors, the mix of distribution channels through which we sell our products and services and general economic conditions. Frequently, a substantial portion of our revenue in each quarter is generated from orders booked and fulfilled during that quarter. As a result, revenue levels are difficult to predict for each quarter. If revenue results are below expectations, operating results will be adversely affected as we have a sizeable base of fixed overhead costs that do not fluctuate much with the changes in revenue. Due to such variances in operating results, we have sometimes failed to meet, and in the future may not meet, market expectations regarding our future operating results.

In addition to the uncertainties of quarterly and annual operating results, future announcements concerning us or our competitors, including technological innovations or commercial products, litigation or public concerns as to the safety or commercial value of one or more of our products may cause the market price of our common stock to fluctuate substantially for reasons which may be unrelated to our operating results.

*We are subject to certain safety risks, including the risk of fire, inherent in the manufacture, use and transportation of lithium batteries.*

Due to the high energy inherent in lithium batteries, our lithium batteries can pose certain safety risks, including the risk of fire. We incorporate procedures in research, development, product design, manufacturing processes and the transportation of lithium batteries that are intended to minimize safety risks, but we cannot assure that accidents will not occur or that our products will not be subject to recall for safety concerns. Although we currently carry insurance policies which cover loss of the plant and machinery, leasehold improvements, inventory and business interruption, any accident, whether at the manufacturing facilities or from the use of the products, may result in significant production delays or claims for damages resulting from injuries or death. While we maintain what we believe to be sufficient casualty liability coverage to protect against such occurrences, these types of losses could reduce our operating income and have other material adverse effects on our business, financial condition and results of operation.

*Negative publicity of lithium-ion batteries may negatively impact the industries or markets we operate in.*

We are unable to predict the impact, severity or duration of negative publicity related to fire / mishandling of lithium-ion batteries or the environmental impact of their disposal, and how it may impact the industries or markets we serve. Ongoing negative attention being given to lithium ion batteries that are integrated into the power systems of new commercial aircraft and electric motor vehicles may have an impact on the lithium ion battery industry as a whole, regardless of the designed usage of those batteries. The residual effects of such events could have an adverse effect on our business, financial condition, and results of operations.

*A finding that our proprietary and intellectual property rights are not enforceable or invalid could allow our competitors and others to produce competing products based on our proprietary and intellectual property or limit our ability to continue to manufacture and market our products.*

We believe our success depends more on the knowledge, ability, experience and technological expertise of our employees than on the legal protection of patents and other proprietary rights. However, we claim proprietary rights in various unpatented technologies, know-how, trade secrets and trademarks relating to products and manufacturing processes. We cannot guarantee the degree of protection these various claims may or will afford, or that competitors will not independently develop or patent technologies that are substantially equivalent or superior to our technology. We protect our proprietary rights in our products and operations through contractual obligations, including nondisclosure agreements with certain employees, customers, consultants and strategic partners. There can be no assurance as to the degree of protection these contractual measures may or will afford. We have had patents issued and have patent applications pending in the U.S. and elsewhere. We cannot assure (1) that patents will be issued from any of these pending applications, or that the claims allowed under any issued patents will be sufficiently broad to protect our technology, (2) that any patents issued to us will not be challenged, invalidated or circumvented, or (3) as to the degree or adequacy of protection any patents or patent applications may or will afford. Further, if we are found to be infringing third party patents, we cannot assure that we will not be subjected to significant damages or will be able to obtain licenses with respect to such patents on acceptable terms, if at all. The failure to obtain necessary licenses could delay product shipments or the introduction of new products, and costly attempts to design around such patents could foreclose the development, manufacture or sale of products.

*Our growth and expansion strategy could strain or overwhelm our resources.*

Rapid growth of our business could significantly strain management, operations and technical resources. If we are successful in obtaining rapid market growth of our products, we will likely be required to deliver large volumes of quality products to customers on a timely basis at a reasonable cost. For example, demand for our new or existing products combined with our ability to penetrate new markets and geographies or secure a major project award, could strain the current capacity of our manufacturing facilities and require additional resources, equipment and time to meet the required demand. We cannot assure, however, that our business will grow rapidly or that our efforts to expand manufacturing and quality control activities will be successful or that we will be able to satisfy commercial scale production requirements on a timely and cost-effective basis.

We also may be required to continue to improve our operations, management and financial systems and controls in order to remain competitive. The failure to manage growth and expansion effectively could have an adverse effect on our business, financial condition, and results of operations.

*The loss of top management and key personnel could significantly harm our business, and our ability to put in place a succession plan and recruit experienced, competent management is critical to the success of the business.*

The loss of top management and key personnel could significantly harm our business, and our ability to put in place a succession plan and recruit experienced, competent management is critical to the success of our business. The continuity of our officers and executive team is vital to the successful implementation of our business model and growth strategy designed to deliver sustainable, consistent profitability. A top management priority has been the development and implementation of a formal succession plan to mitigate the risks associated with the loss of senior executives. There is no guarantee that we will be successful in our efforts to effectively implement our succession plan.

Because of the specialized, technical nature of our business, we are highly dependent on certain members of our management, sales, engineering and technical staffs. The loss of these employees could have a material adverse effect on our business, financial condition and results of operations. Our ability to effectively pursue our business strategy will depend upon, among other factors, the successful retention of our key personnel, recruitment of additional highly skilled and experienced managerial, sales, engineering and technical personnel, and the integration of such personnel obtained through business acquisitions. We cannot assure that we will be able to retain or recruit this type of personnel. An inability to hire sufficient numbers of people or to find people with the desired skills could result in greater demands being placed on limited management resources which could delay or impede the execution of our business plans and have other material adverse effects on our business, financial condition and results of operations.

*Our supply of raw materials and components could be disrupted.*

Certain materials and components used in our products are available only from a single or a limited number of suppliers. As such, some materials and components could become in short supply resulting in limited availability and/or increased costs. Additionally, we may elect to develop relationships with a single or limited number of suppliers for materials and components that are otherwise generally available. Due to our involvement with supplying defense products to the U.S. government, we could receive a government preference to continue to obtain critical supplies to meet military production needs. However, if the government did not provide us with a government preference in such circumstances, the difficulty in obtaining supplies could have a material adverse effect on our business, financial condition and results of operations. We believe that alternative suppliers are available to supply materials and components that could replace materials and components currently used and that, if necessary, we would be able to redesign our products to make use of such alternatives. However, any interruption in the supply from any supplier that serves as a sole source could delay product shipments and have a material adverse effect on our business, financial condition and results of operations. We have experienced interruptions of product deliveries by sole source suppliers in the past, and we cannot guarantee that we will not experience a material interruption of deliveries from sole source suppliers in the future. Additionally, we could face increasing pricing pressure from our suppliers dependent upon volume due to rising costs by these suppliers that could be passed on to us in higher prices for our raw materials, which could increase our cost of business, lower our margins and have other materially adverse effects on our business, financial condition and results of operations.

*We are subject to foreign currency fluctuations.*

We maintain manufacturing operations in North America and China, and we export products to various countries. We purchase materials and sell our products in foreign currencies, and therefore currency fluctuations may impact our pricing of products sold and materials purchased. While the percentage of our business with customers outside of the U.S. slightly declined in 2015, sales to such customers still makes up a significant percentage of our total revenues. For example, in 2015, 39% our sales were to customers outside of the U.S. as compared to 41% in 2014. The recent strengthening of the U.S. Dollar relative to our customers' currencies makes our products relatively more expensive to them, and may adversely affect our sales levels and currencies makes our products relatively more expensive to them, and may adversely affect our sales levels and profitability. In addition, our China subsidiary maintains its books in local currency and the translation of the subsidiary financial statements into U.S. dollars for our consolidated financial statements could have an adverse effect on our consolidated financial results due to changes in local currency relative to the U.S. dollar. Accordingly, currency fluctuations could have a material adverse effect on our business, financial condition and results of operations by increasing our expenses and reducing our income. Finally, we maintain certain domestic U.S. cash balances denominated in foreign currencies, and the U.S. dollar equivalent of these balances fluctuates with changes in the foreign exchange rates between these currencies and the U.S. dollar.

*Our customers may not meet the volume expectations in our supply agreements.*

We sell most of our products and services through supply agreements and contracts. While supply agreements and contracts contain volume-based pricing based on expected volumes, we cannot assure that adjustments to reflect volume shortfalls will be made under current industry practices because pricing is rarely adjusted retroactively when contract volumes are not achieved. Every effort is made to adjust future prices accordingly, but our ability to adjust prices is generally based on market conditions and we may not be able to adjust prices in various circumstances.

*We are subject to the contract rules and procedures of the U.S. and foreign governments. These rules and procedures create significant risks and uncertainties for us that are not usually present in contracts with private parties.*

We continue to develop battery products and communications systems to meet the needs of the U.S. and foreign governments. We compete in solicitations for awards of contracts. The receipt of an award, however, does not always result in the immediate release of an order and does not guarantee in any way any given volume of orders. Any delay of solicitations or anticipated purchase orders by, or future failure of, the U.S. or foreign governments to purchase products manufactured by us could have a material adverse effect on our business, financial condition and results of operations. In these scenarios we are also typically required to successfully meet contractual specifications and to pass various qualification-testing for the products under contract. Our inability to pass these tests in a timely fashion, as well as meet delivery schedules for orders released under contract, could have a material adverse effect on our business, financial condition and results of operations.

Additionally, when a U.S. government contract is awarded, there is a government procedure that permits unsuccessful companies to formally protest such award if they believe they were unjustly treated in the evaluation process. As a result of these protests, the government is precluded from proceeding under these contracts until the protests are resolved. A prolonged delay in the resolution of a protest, or a reversal of an award resulting from such a protest could have material adverse effects on our business, financial condition and results of operations.

*We could be adversely affected by violations of the US Foreign Corrupt Practices Act ("FCPA"), the U.K. Bribery Act or other anti-corruption laws.*

The FCPA, U.K. Bribery Act and other anti-corruption laws generally prohibit companies and their intermediaries from making improper payments (to foreign officials and otherwise) and require companies to keep accurate books and records and maintain appropriate internal controls. Our training program and policies mandate compliance with such laws. We operate in some parts of the world that have experienced governmental corruption to some degree, and, in certain circumstances, strict compliance with anti-bribery laws may conflict with local customs and practices. If we are found to be liable for violations of anti-corruption laws (either due to our own acts or our inadvertence, or due to the acts or inadvertence of others, including employees of our third party partners or agents), we could suffer from civil and criminal penalties or other sanctions, incur significant internal investigation costs and suffer reputational harm.

*Our ability to use our net operating loss carryforwards in the future may be limited, which could increase our tax liabilities and reduce our net income.*

At December 31, 2015, we had approximately \$87 million of U.S. and U.K. net operating loss carryforwards ("NOLs") and approximately \$1.6 million of U.S. tax credit carryforwards available to offset future taxable income. We continually assess the carrying value of this asset based on the relevant accounting standards. As of December 31, 2015, we reflected a full valuation allowance against our deferred tax asset to the extent the asset is not able to be offset by future reversing temporary differences. As we continue to assess the realizability of our deferred tax assets, the amount of the valuation allowance could be reduced. In addition, certain of our NOL carryforwards are subject to U.S. alternative minimum tax such that carryforwards can offset only 90% of alternative minimum taxable income. Achieving our business plan targets, particularly those relating to revenue and profitability, is integral to our assessment regarding the recoverability of our net deferred tax asset.

*Compliance with government regulations regarding the use of "conflict minerals" may result in increased costs and risks to the company.*

As part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Act"), the SEC has promulgated disclosure requirements regarding the use of certain minerals, which are mined from the Democratic Republic of Congo and adjoining countries, known as conflict minerals. The disclosure rules were effective in May 2014. We are required to perform due diligence inquiries of our supply chain and publicly disclose whether we manufacture (as defined in the Act) any products that contain conflict minerals and could incur significant costs related to implementing a process that will meet the mandates of the Act. Additionally, customers typically rely on us to provide critical data regarding the parts they purchase, including conflict mineral information. Our material sourcing is broad-based and multi-tiered, and we may not be able to easily verify the origins for conflict minerals used in the products we sell. We have many suppliers and each provides conflict mineral information in a different manner, if at all. Accordingly, because the supply chain is complex, we may face reputational challenges if we are unable to sufficiently verify the origins of conflict minerals used in our products. Additionally, customers may demand that the products they purchase be free of conflict minerals. This may limit the number of suppliers that can provide products in sufficient quantities to meet customer demand or at competitive prices.

*The U.S. and foreign governments can audit our contracts with their respective defense and government agencies and, under certain circumstances, can adjust the economic terms of those contracts.*

A portion of our business comes from sales of products and services to the U.S. and foreign governments through various contracts. These contracts are subject to procurement laws and regulations that lay out policies and procedures for acquiring goods and services. The regulations also contain guidelines for managing contracts after they are awarded, including conditions under which contracts may be terminated, in whole or in part, at the government's convenience or for default. Failure to comply with the procurement laws or regulations can result in civil, criminal or administrative proceedings involving fines, penalties, suspension of payments, or suspension or disbarment from government contracting or subcontracting for a period of time.

*We may incur significant costs because of known and unknown environmental matters.*

National, state and local laws impose various environmental controls on the manufacture, transportation, storage, use and disposal of batteries and of certain chemicals used in the manufacture of batteries. We use and generate a variety of chemicals and other hazardous by-products in our manufacturing operations. These environmental laws govern, among other things, air emissions, wastewater discharges and the handling, storage and release of wastes and hazardous substances. Such laws and regulations can be complex and are subject to change. Although we believe that our operations are in substantial compliance with current environmental regulations and that, except as noted below, there are no environmental conditions that will require material expenditures for clean-up at our present or former facilities or at facilities to which we have sent waste for disposal, there can be no assurance that changes in such laws and regulations will not impose costly compliance requirements on us or otherwise subject us to future liabilities. There can be no assurance that additional or modified regulations relating to the manufacture, transportation, storage, use and disposal of materials used to manufacture our batteries or restricting disposal of batteries will not be imposed, or as to how these regulations will affect us or our customers. Such changes in regulations could reduce our operating income and margins and have other material adverse effects on our business, financial condition and results of operations. We could incur substantial costs as a result of violations of environmental laws, including clean-up costs, fines and sanctions and third-party property damage or personal injury claims. Failure to comply with environmental requirements could also result in enforcement actions that materially limit or otherwise affect the operations of the facilities involved. Under certain environmental laws, a current or previous owner or operator of an environmentally contaminated site may be held liable for the entire cost of investigation, removal or remediation of hazardous materials at such property. This liability could result whether or not the owner or operator knew of, or was responsible for, the presence of any hazardous materials.

The EU RoHS Directive places restrictions on the use of certain hazardous substances in electrical and electronic equipment. All applicable products sold in the European Union market after July 1, 2006 must comply with EU RoHS Directive. While this directive does not apply to batteries and does not currently affect our defense products, should any changes occur in the directive that would affect our products, we intend and expect to comply with any new regulations that are imposed. Our commercial chargers are in compliance with this directive. Additional European Union directives, entitled the Waste Electrical and Electronic Equipment ("WEEE") Directive and the Directive "on batteries and accumulators and waste batteries and accumulators", impose regulations affecting our non-defense products. These directives require that producers or importers of particular classes of electrical goods are financially responsible for specified collection, recycling, treatment and disposal of past and future covered products. These directives assign levels of responsibility to companies doing business in European Union markets based on their relative market share. These directives call on each European Union member state to enact enabling legislation to implement the directive. As additional European Union member states pass enabling legislation our compliance system should be sufficient to meet such requirements. Our current estimated costs associated with our compliance with these directives based on our current market share are not significant. However, we continue to evaluate the impact of these directives as European Union member states implement guidance, and actual costs could differ from our current estimates.



The EU Battery Directive is intended to cover all types of batteries regardless of their shape, volume, weight, material composition or use. It is aimed at reducing mercury, cadmium, lead and other metals in the environment by minimizing the use of these substances in batteries and by treating and re-using old batteries. This directive applies to all types of batteries except those used to protect European Member States' security, for military purposes, or sent into space. To achieve these objectives, the EU Battery Directive prohibits the marketing of some batteries containing hazardous substances. It establishes processes aimed at high levels of collection and recycling of batteries with quantified collection and recycling targets. The directive sets out minimum rules for producer responsibility and provisions with regard to labeling of batteries and their removability from equipment. Product markings are required for batteries and accumulators to provide information on capacity and to facilitate reuse and safe disposal. We currently ship our products pursuant to the requirements of the directive. Our current estimated costs associated with our compliance with these directives based on our current market share are not significant. However, we continue to evaluate the impact of these directives as European Union member states implement guidance, and actual costs could differ from our current estimates.

The China RoHS directive provides a two-step, broad regulatory framework, including similar hazardous substance restrictions as are imposed by the EU RoHS Directive, and applies to methods for the control and reduction of pollution and other public hazards to the environment caused during the production, sale, and import of EIP in China affecting a broad range of electronic products and parts. Currently, only the first step of the regulatory framework of China RoHS, which details marking and labeling requirements under the Marking Standard, is in effect. However, the methods under China RoHS only apply to EIP placed in the marketplace in China. Additionally, the Marking Standard does not apply to components sold to OEMs for use in other EIPs. Our sales in China are limited to sales to OEMs and to distributors who supply to OEMs. Should our sales strategy change to include direct sales to end-users, we believe our compliance system is sufficient to meet our requirements under China RoHS. Our current estimated costs associated with our compliance with this regulation based on our current market share are not significant. However, we continue to evaluate the impact of this regulation, and actual costs could differ from our current estimates.

A number of domestic and international communities are prohibiting the landfill disposal of batteries and requiring companies to make provisions for product recycling. Of particular note are the EU Batteries Directive and the New York State Rechargeable Battery Recycling Law. We are committed to responsible product stewardship and ongoing compliance with these and future statutes and regulations. The compliance costs associated with current recycling statutes and regulations are not expected to be significant at this time. However, we continue to evaluate the impact of these regulations, and actual costs could differ from our current estimates and additional laws could be enacted by these and other states which entail greater costs of compliance.

#### **ITEM 1B. UNRESOLVED STAFF COMMENTS**

None.

#### **ITEM 2. PROPERTIES**

As of December 31, 2015, we own two buildings in Newark, New York comprising approximately 250,000 square feet, which serve operations primarily in the Battery & Energy Products operating segment. Our corporate headquarters are located in our Newark, New York facility. We also lease approximately 97,000 square feet in two buildings on one campus in Shenzhen, China, which serve operations in the Battery & Energy Products operating segment. The Shenzhen, China campus location includes a dormitory facility. See Note 2 to our Consolidated Financial Statements in Item 8 of this Annual Report on Form 10-K for further discussion on the status of our China facility. We lease approximately 32,500 square feet in a facility in Virginia Beach, Virginia, which serves operations in the Communications Systems operating segment. We also lease sales and administrative offices, as well as manufacturing and production facilities, in India, which serve operations in the Battery & Energy Products operating segment. Our research and development efforts for our Battery & Energy Products are conducted at our Newark, New York and Shenzhen, China facilities, while our research and development efforts for our Communications Systems products are conducted in Tallahassee, Florida and at our facility in Virginia Beach, Virginia. On occasion, we rent additional warehouse space to store inventory and non-operational equipment. We believe that our facilities are adequate and suitable for our current needs. However, we may require additional manufacturing and administrative space if demand for our products and services grows.

### **ITEM 3. LEGAL PROCEEDINGS**

We are subject to legal proceedings and claims that arise in the normal course of business. We believe that the final disposition of such matters will not have a material adverse effect on our financial position, results of operations or cash flows.

#### *Dreamliner Litigation*

In July 2013, an unoccupied Boeing 787 Dreamliner aircraft operated by Ethiopian Airlines was damaged by a fire while parked at London Heathrow Airport. We participated in and provided technical assistance in support of an investigation of this incident conducted by U.K. and U.S. regulatory authorities as well as by the manufacturer of the aircraft, as we are one of many downstream suppliers to that manufacturer. A final report was issued by the Air Accidents Investigative Branch - - UK Civil Aviation regulatory authority, with findings indicating that the fire was primarily caused by circumstances related to the plane's emergency locator transmitter ("ELT") manufactured and installed by another company.

A component of the ELT is a battery pack which incorporates Ultralife's industry-standard lithium manganese dioxide non-rechargeable D-cell. Ultralife has had this cell in production since 2001, with millions of units produced and this cell is widely-used for global defense and commercial applications. This battery product has gone through rigorous safety and qualification testing, including United Nations Transport of Dangerous Goods, Manual of Tests and Criteria, and is authorized for use in aerospace applications under Technical Standard Order C142.

On May 4, 2015, we were notified of a lawsuit in which we were named, along with other suppliers to the aircraft manufacturer, concerning that 2013 fire. The suit was filed by Ethiopian Airlines Enterprise in the Commercial Court, Queen's Bench Division of the High Court of Justice, London. The suit seeks as damages USD 42 million plus other unspecified amounts, including those for loss of use and diminution in value of the aircraft. We maintain liability and products liability insurance through reputable providers, and in accordance with our corporate practices, immediately advised and referred this matter to our insurers. We are working with those insurers and their counsel to respond to and actively defend against this action, which is ongoing.

At this time, we believe that there is not a reasonable possibility that this incident will result in a material financial exposure to the Company.

#### *Arista Power Litigation*

Since September 2011, we have been pursuing legal action against Arista Power, Inc. ("Arista") and our former employee, David Modeen, for, among other things, alleged breach of certain agreements, duties and obligations, including misappropriation of our confidential information and trade secrets, tortious interference, and breach of contract. On January 12, 2016, Arista filed for liquidation under Chapter 7 of the bankruptcy laws of the United States, without accurately identifying our ongoing lawsuit against them. Although we have not withdrawn our lawsuit, nor has it been dismissed, the Company does not intend to submit a Proof of Claim in connection with Arista's bankruptcy filing, or otherwise continue pursuing its claims against Arista.

### **ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

## **PART II**

### **ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

#### **Market Information**

Ultralife's common stock is listed on the NASDAQ Global Market under the symbol "ULBI."

The following table sets forth the quarterly high and low closing sales prices of our common stock during 2014 and 2015:

	Closing Sales Prices	
	<u>High</u>	<u>Low</u>
2014:		
Quarter ended March 30, 2014	\$4.56	\$3.34
Quarter ended June 29, 2014	4.25	3.60
Quarter ended September 28, 2014	3.85	3.08
Quarter ended December 31, 2014	3.55	2.87
2015:		
Quarter ended March 29, 2015	\$3.99	\$3.00
Quarter ended June 28, 2015	4.40	3.56
Quarter ended September 27, 2015	5.45	3.90
Quarter ended December 31, 2015	7.49	5.28

## Holders

As of February 25, 2016, there were approximately 2,800 registered holders of record of our common stock.

## Purchases of Equity Securities by the Issuer

On April 28, 2014, the Company’s Board of Directors approved a share repurchase program (the “Share Repurchase Program”) which became effective on May 1, 2014, under which the Company was authorized to repurchase up to 1.8 million shares of its outstanding common stock over a period not to exceed twelve months. The Share Repurchase Program has been extended through June 2, 2016, and the maximum number of shares authorized to be repurchased under the program has been increased to 3.4 million shares.

Share repurchases under this program are made in accordance with SEC Rule 10b-18 using a variety of methods, which may include open market purchases, privately negotiated transactions and block trades, or any combination of such methods, in compliance with applicable insider trading and other securities laws and regulations. With the exception of repurchases made during stock trading black-out periods under a 10b5-1 Plan, the timing, manner, price and amount of any repurchase are determined at the Company’s discretion. The Share Repurchase Program may be suspended, terminated or modified by the Company at any time and for any reason. The Share Repurchase Program does not obligate the Company to repurchase any specific number of shares.

In 2015, we repurchased a total of 2,258,929 shares of our common stock for an aggregate consideration of \$9,388, of which 2,225,437 shares were repurchased under the Share Repurchase Program for an aggregate amount of \$9,162 (excluding fees and commissions).

For the year ended December 31, 2014, we repurchased a total of 227,974 shares of our common stock for an aggregate consideration of \$762, of which 216,754 shares we repurchased under the Share Repurchase Program for an aggregate amount of \$716 (excluding fees and commissions).

From the inception of the Share Repurchase Program on May 1, 2014 through December 31, 2015, the Company has repurchased 2,442,191 shares for an aggregate cost (excluding fees and commissions) of \$9,877. The total remaining balance of shares authorized for repurchase under the Share Repurchase Program is 957,809 shares as of December 31, 2015.

The following table sets forth information regarding purchases of our 2015 common stock under this program:

	<b>Total Number of Shares Purchased</b>	<b>Average Price Paid Per Share</b>	<b>Total Number of Shares Purchased as Part of Publicly Announced Program</b>	<b>Maximum Number of Shares That May Yet Be Purchased Under the Program</b>
Fourth quarter total	-	-	-	957,809
Total for 2015	2,225,437	\$4.12	2,225,437	957,809

**Dividends**

We have never declared or paid any cash dividends on our capital stock. Pursuant to our current credit facility, we are precluded from paying any dividends. We intend to retain earnings, if any, to finance future operations and expansion and, therefore, do not anticipate paying any cash dividends in the foreseeable future. Any future payment of dividends will depend upon our financial condition, capital requirements and earnings, as well as upon other factors that our Board of Directors may deem relevant.

**ITEM 6. SELECTED FINANCIAL DATA**

As a smaller reporting company, we are not required to provide this information.

**ITEM 7. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following discussion and analysis should be read in conjunction with the accompanying Consolidated Financial Statements and Notes thereto appearing elsewhere in this Form 10-K.

The financial information in this Management’s Discussion and Analysis of Financial Condition and Results of Operations is presented in thousands of dollars, except for share and per share amounts. All figures presented below represent results from continuing operations, unless otherwise specified.

**General**

We offer products and services ranging from power solutions to communications and electronics systems to customers across the globe in the government, defense and commercial sectors. With an emphasis on strong engineering and a collaborative approach to problem solving, we design, manufacture, install and maintain power and communications systems including rechargeable and non-rechargeable batteries, communications and electronics systems and accessories and custom engineered systems. We sell our products worldwide through a variety of trade channels, including original equipment manufacturers (“OEMs”), industrial and defense supply distributors and directly to U.S. and international defense departments.

We report our results in two operating segments: Battery & Energy Products and Communications Systems. The Battery & Energy Products segment includes lithium 9-volt, cylindrical and various other non-rechargeable batteries, in addition to rechargeable batteries, uninterruptable power supplies, charging systems and accessories, such as cables. The Communications Systems segment includes RF amplifiers, power supplies, cable and connector assemblies, amplified speakers, equipment mounts, case equipment, integrated communication system kits and communications and electronics systems design. We believe that reporting performance at the gross profit level is the best indicator of segment performance. As such, we report segment performance at the gross profit level and operating expenses as Corporate charges.

We continually evaluate ways to grow, including opportunities to expand through mergers, acquisitions and joint ventures, which can broaden the scope of our products and services, expand operating and market opportunities and provide the ability to enter new lines of business synergistic with our portfolio of offerings.

During 2014, we elected to terminate our lease for our U.K. service office and repair facility which was to have expired in May 2018. The termination of this lease was effective as of January 31, 2015.

Also in 2012, we sold 100% of our ownership interest in RedBlack Communications, Inc. (“RedBlack”). During 2015 and 2014, we recognized \$0 and \$61 in expense, respectively, in discontinued operations arising from customary post-closing working capital adjustments relating to that sale.

Currently, we do not experience significant seasonal sales trends in any of our operating segments, although sales to the U.S. Defense Department and other international defense organizations can be sporadic based on the needs of those particular customers.

Consolidated revenues increased by \$9,933 or 14.9% to \$76,427 for the year ended December 31, 2015 compared to \$66,494 for the year ended December 31, 2014. During 2015, we experienced revenue growth of 15.0% for our Battery & Energy Products business and 14.7% for our Communications Systems business. This performance reflected a \$6,306 or 17.3% increase in sales to our government and defense customers and a \$3,627 or 12.1% increase in sales to our commercial customers. The higher government and defense sales primarily resulted from increased demand from a large, global defense prime contractor for our batteries, chargers and integrated communications systems, and the increased commercial sales reflected our continued penetration of the medical device market with our rechargeable batteries and chargers and an increased demand for our 9-Volt batteries from global OEMs for their smoke detectors. Gross margin increased to 30.5% for the year ended December 31, 2015, as compared to 29.1% for the year ended December 31, 2014, due primarily to increased sales of high value proposition commercial products and new products, higher production volume in our factories and productivity improvements resulting from our “lean” initiatives.

Operating expenses decreased by \$807 or 3.9% to \$19,986 during the year ended December 31, 2015, compared to \$20,793 during the year ended December 31, 2014. The 2015 expense level primarily reflects higher research and development spending resulting from intensified new product development activities in response to a marked increase in quoting requests and a \$150 non-cash impairment charge related to our McDowell Research Corporation trademark to reflect government and defense industry timing delays in the awarding of large contracts experienced over the last few years. These expenses were more than offset by our continued efforts to reduce discretionary general administrative and selling expenses. Operating expenses as a percentage of revenues decreased from 31.3% in 2014 to 26.2% in 2015 due to the combination of higher revenues and lower expenses in 2015.

Net income from continuing operations was \$2,840, or \$0.18 per basic share (\$0.17 per diluted share) for the year ended December 31, 2015, compared to a net loss from continuing operations of \$2,070, or \$0.12 per basic share, for the year ended December 31, 2014. Net loss from discontinued operations, net of tax, was \$0, or \$0.00 per share, for the year ended December 31, 2015, compared to \$61, or \$0.00 per share, for the year ended December 31, 2014.

Adjusted EBITDA, defined as net income (loss) attributable to Ultralife before net interest expense, provision (benefit) for income taxes, depreciation and amortization, plus/minus expenses/income that we do not consider reflective of our continuing operations, amounted to \$6,966 for the year ended December 31, 2015 compared to \$2,942 for the prior period. See the section “Adjusted EBITDA” beginning on page 33 for a reconciliation of Adjusted EBITDA to net income (loss) attributable to Ultralife.

As a result of careful working capital management and cash generated from operations, our liquidity remains solid with total cash of \$14,533, a decrease of \$3,333 from the cash position of \$17,866 as of December 31, 2014. The decrease reflects the repurchase of 2,225,437 shares under our Share Repurchase Program in the aggregate \$9,162 partially offset by our operating performance and inventory reduction. We had no debt as of December 31, 2015 or December 31, 2014.

We ended 2015 in a strong position to deliver profitable growth in 2016 through continued maturation of diverse market opportunities, ongoing new product development and disciplined adherence to our business model parameters.

**Results of Operations**
**Year Ended December 31, 2015 Compared With the Year Ended December 31, 2014:**

	<b>Year Ended December 31,</b>		<b>Increase/ (Decrease)</b>
	<b>2015</b>	<b>2014</b>	
<b>Revenues:</b>			
Battery & Energy Products	\$ 65,272	\$ 56,772	\$ 8,500
Communications Systems	11,155	9,722	1,433
Total	<u>76,427</u>	<u>66,494</u>	<u>9,933</u>
<b>Cost of products sold:</b>			
Battery & Energy Products	46,574	41,256	5,318
Communications Systems	6,537	5,888	649
Total	<u>53,111</u>	<u>47,144</u>	<u>5,967</u>
<b>Gross profit:</b>			
Battery & Energy Products	18,698	15,516	3,182
Communications Systems	4,618	3,834	784
Total	<u>23,316</u>	<u>19,350</u>	<u>3,966</u>
Operating expenses	<u>19,986</u>	<u>20,793</u>	<u>(807)</u>
Operating income (loss)	3,330	(1,443)	4,773
Other expense, net	(180)	(359)	179
Income (Loss) from continuing operations before taxes	3,150	(1,802)	4,952
Income tax provision	310	268	42
Net income (loss) from continuing operations	<u>2,840</u>	<u>(2,070)</u>	<u>4,910</u>
(Loss) income from discontinued operations, net of tax	<u>—</u>	<u>(61)</u>	<u>61</u>
Net income (loss)	2,840	(2,131)	4,971
Net income (loss) attributable to non-controlling interest	29	15	14
Net income (loss) attributable to Ultralife	<u>\$ 2,869</u>	<u>\$ (2,116)</u>	<u>\$ 4,985</u>
<b>Net income (loss) attributable to Ultralife common shares – basic:</b>			
Continuing operations	\$ .18	\$ (.12)	\$ .30
Discontinued operations	\$ .00	\$ (.00)	\$ .00
<b>Net income (loss) attributable to Ultralife common shares – diluted:</b>			
Continuing operations	\$ .17	\$ (.12)	\$ .29
Discontinued operations	\$ .00	\$ (.00)	\$ .00
Weighted average shares outstanding – basic	16,182,000	17,475,000	(1,293,000)
Weighted average shares outstanding – diluted	<u>16,458,000</u>	<u>17,475,000</u>	<u>(1,017,000)</u>

*Revenues.* Total revenues for the year ended December 31, 2015 amounted to \$76,427, an increase of \$9,933, or 14.9% from the \$66,494 reported for the year ended December 31, 2014.

Battery & Energy Products revenues increased \$8,500, or 15.0%, to \$65,272 for the year ended December 31, 2015 from the \$56,772 reported for the year ended December 31, 2014. Sales to government and defense customers increased \$4,873 or 18.3% to \$31,563 in 2015 from \$26,690 in 2014 driven by higher rechargeable battery and charger shipments to a large, global defense prime contractor and primary batteries to the U.S. Government's Defense Logistics Agency. Commercial sales increased \$3,627 or 12.1% to \$33,709 for 2015 versus \$30,082 for 2014 due primarily to increased sales of rechargeable batteries for medical devices and medical carts and 9-Volt batteries to large, global OEM's driven by some legislative changes for smoke detectors, particularly overseas.

Communications Systems revenues increased \$1,433, or 14.7%, to \$11,155 for the year ended December 31, 2015 from \$9,722 for the year ended December 31, 2014. The year-over-year increase reflects broader distribution and increased order flow compared to 2014, trends towards integrated systems in line with our new product development focus and initial shipments through an OEM to the U.S. Army of the Vehicle Installed Power Enhanced Rifleman Appliqué (“VIPER”) following our September award of the \$8.2 million contract.

*Cost of Products Sold.* Cost of products sold increased \$5,967 or 12.7%, from \$47,144 for the year ended December 31, 2014 to \$53,111 for the year ended December 31, 2015. Consolidated cost of products sold as a percentage of total revenue decreased from 70.9% for the year ended December 31, 2014 to 69.5% for the year ended December 31, 2015. Correspondingly, consolidated gross margin was 30.5% for the year ended December 31, 2015, compared with a gross margin of 29.1% for the year ended December 31, 2014. The improvement in gross margin reflects the increased sales of high value proposition commercial products, higher mix of new products and higher production volumes, together with Lean productivity gains.

In our Battery & Energy Products segment, the cost of products sold increased \$5,318 or 12.9%, from \$41,256 for the year ended December 31, 2014 to \$46,574 for the year ended December 31, 2015. Battery & Energy Products gross margin for 2015 was \$18,698 or 28.6%, an increase of \$3,182 or 20.5% from 2014’s gross margin of \$15,516, or 27.3%. Battery & Energy Products gross margin increased by 130 basis points for the year ended December 31, 2015, primarily as a result of a more favorable product mix and favorable absorption of overhead costs resulting from that mix.

In our Communications Systems segment, the cost of products sold increased \$649 or 11.0% from \$5,888 for the year ended December 31, 2014 to \$6,537 for the year ended December 31, 2015. Communications Systems gross margin for 2015 was \$4,618 or 41.4%, an increase of \$784 or 20.4% from 2014’s gross margin of \$3,834, or 39.4%. The 200 basis point increase in gross margin year-over-year is due to more favorable product mix towards high value proposition new products and higher manufacturing volume.

*Operating Expenses.* Operating expenses decreased by \$807, or 3.9%, from \$20,793 for the year ended December 31, 2014 to \$19,986 for the current year. The 2015 expense level primarily reflects higher research and development spending resulting from intensified new product development activities for both businesses in response to a marked increase in quoting requests and a \$150 non-cash impairment charge related to our McDowell Research Corporation trademark to reflect government and defense industry timing delays in the awarding of large contracts experienced over the last few years. These expenses were more than offset by our continued efforts to reduce more discretionary general administrative and selling expenses. Overall, operating expenses as a percentage of revenues decreased from 31.3% in 2014 to 26.2% in 2015 due to the combination of higher revenues and lower expenses in 2015. Amortization expense associated with intangible assets related to our acquisitions was \$235 for 2015 (\$105 in selling, general and administrative expenses and \$130 in research and development costs), compared with \$305 for 2014 (\$129 in selling, general, and administrative expenses and \$176 in research and development costs). Research and development costs were \$5,603 in 2015, an increase of \$270 or 5.1%, from the \$5,333 reported in 2014. Selling, general, and administrative expenses decreased \$1,227, or 7.9%, to \$14,233 for the year ended December 31, 2015 from \$15,460 for the year ended December 31, 2014, reflecting on-going actions to reduce discretionary general and administrative expenses and a greater focus on selling expenses to align with growth opportunities. For 2015, we recorded a non-cash impairment charge of \$150 to reduce the book value of our McDowell Research Corporation trademark. The trademark impairment charge is based on compliance with U.S. Generally Accepted Accounting Principles (“U.S. GAAP”), and resulted from taking into account timing delays in the awarding by government/defense customers in recent years of certain large projects in our Communications Systems pipeline.

*Other Income (Expense).* Other income (expense) totaled (\$180) for the year ended December 31, 2015, compared to (\$359) for the year ended December 31, 2014. Interest expense, net of interest income, increased \$40 from \$205 during 2014 to \$245 during 2015, as a result of the cost to insure certain non-U.S. accounts receivable in the first half of 2015 in accordance with our Credit Facility with PNC. Miscellaneous income (expense) amounted to \$65 for 2015 as compared to (\$154) in 2014 primarily due to transactions impacted by changes in foreign currencies relative to the strengthening of the U.S. dollar and other currencies.

*Income Taxes.* We recorded a tax provision of \$310 for the year ended December 31, 2015 compared with a tax provision of \$268 for the same period of 2014. The expense is primarily due to (a) the income reported for our China operations during the periods, (b) estimated provision for U.S. federal alternative minimum tax liability, and (c) the recognition of deferred tax liabilities generated from the amortization of goodwill and certain intangible assets for tax purposes that cannot be predicted to reverse for book purposes during our loss carryforward periods, partially offset by the tax benefit relating to our partial trademark impairment. The year-over-year increase is attributable primarily to higher income in our Chinese subsidiary. The effective consolidated tax rate for the years ended December 31, 2015 and 2014 was:

	<b>Years Ended December 31,</b>	
	<b>2015</b>	<b>2014</b>
Income (Loss) before Income Taxes (a)	\$ 3,150	\$ (1,802)
Income tax provision (b)	310	268
Effective rate (b) / (a)	9.8%	14.9%

In 2015 and 2014, in the U.S. and the U.K., we continue to report a valuation allowance for our deferred tax assets that cannot be offset by reversing temporary differences. This results from the conclusion that, based on past history, it is more likely than not that we would not utilize our U.S. and U.K. net operating losses (“NOLs”) that had accumulated over time. The recognition of a valuation allowance on our deferred tax assets resulted from our evaluation of all available evidence, both positive and negative. The assessment of the realizability of the NOLs was based on a number of factors including, our history of operating losses, the volatility of our earnings, our historical operating volatility, our historical inability to accurately forecast earnings for future periods and the continued uncertainty of the general business climate. We concluded that these historical factors represent sufficient negative evidence and have concluded that we should continue to have a full valuation allowance against our net deferred tax assets. (See Notes 1 and 11 in the Notes to Consolidated Financial Statements for additional information.)

In addition, certain of our NOL carryforwards are subject to U.S. alternative minimum tax such that carryforwards can offset only 90% of alternative minimum taxable income. This limitation did not have an impact on income taxes determined for 2014, but we have included in our 2015 income tax provision an estimated amount owing for U.S. federal alternative minimum tax liability. The use of our U.K. NOL carryforwards may be limited due to the change in the U.K. operation during 2008 from a manufacturing and assembly center to primarily a distribution and service center.

*Discontinued Operations.* Income (Loss) from discontinued operations, net of tax, totaled \$0 for the year ended December 31, 2015, compared to a loss of (\$61) in the same period of 2014. The 2014 loss results from our final adjustments relating to the sale of RedBlack. For more information, see Note 2 to the Consolidated Financial Statements.

*Net Income (Loss) Attributable to Ultralife.* Net income attributable to Ultralife and net loss attributable to Ultralife common shareholders per basic share were \$2,869 and \$0.18, respectively, for the year ended December 31, 2015, compared to net loss attributable to Ultralife and net loss attributable to Ultralife common shareholders per share of (\$2,116) and (\$0.12), respectively, for the year ended December 31, 2014, primarily as a result of the reasons described above. Weighted average common shares outstanding used to compute basic earnings per share decreased from 17,475,000 in 2014 to 16,182,000 in 2015, mainly due to the effect of our Share Repurchase Program (see Note 4 to our Consolidated Financial Statements) partially offset by stock option exercises.



### Adjusted EBITDA from continuing operations

In evaluating our business, we consider and use Adjusted EBITDA from continuing operations, a non-GAAP financial measure, as a supplemental measure of our operating performance. We define Adjusted EBITDA from continuing operations as net income (loss) attributable to Ultralife before net interest expense, provision (benefit) for income taxes, depreciation and amortization, plus/minus expenses/income that we do not consider reflective of our ongoing continuing operations. We use Adjusted EBITDA from continuing operations as a supplemental measure to review and assess our operating performance and to enhance comparability between periods. We also believe the use of Adjusted EBITDA from continuing operations facilitates investors' use of operating performance comparisons from period to period and company to company by backing out potential differences caused by variations in such items as capital structures (affecting relative interest expense and stock-based compensation expense), the book amortization of intangible assets (affecting relative amortization expense), the age and book value of facilities and equipment (affecting relative depreciation expense) and other significant non-operating expenses or income. We also present Adjusted EBITDA from continuing operations because we believe it is frequently used by securities analysts, investors and other interested parties as a measure of financial performance. We reconcile Adjusted EBITDA from continuing operations to net income (loss) attributable to Ultralife, the most comparable financial measure under U.S. GAAP.

We use Adjusted EBITDA from continuing operations in our decision-making processes relating to the operation of our business together with U.S. GAAP financial measures such as income (loss) from operations. We believe that Adjusted EBITDA from continuing operations permits a comparative assessment of our operating performance, relative to our performance based on our U.S. GAAP results, while isolating the effects of depreciation and amortization, which may vary from period to period without any correlation to underlying operating performance, and of non-cash stock-based compensation, which is a non-cash expense that varies widely among companies. We believe that by limiting Adjusted EBITDA to continuing operations, we assist investors in gaining a better understanding of our business on a going forward basis. We provide information relating to our Adjusted EBITDA from continuing operations so that securities analysts, investors and other interested parties have the same data that we employ in assessing our overall operations. We believe that trends in our Adjusted EBITDA from continuing operations are a valuable indicator of our operating performance on a consolidated basis and of our ability to produce operating cash flows to fund working capital needs, to service debt obligations and to fund capital expenditures.

The term Adjusted EBITDA from continuing operations is not defined under U.S. GAAP, and is not a measure of operating income, operating performance or liquidity presented in accordance with U.S. GAAP. Our Adjusted EBITDA from continuing operations has limitations as an analytical tool, and when assessing our operating performance, Adjusted EBITDA from continuing operations should not be considered in isolation or as a substitute for net income (loss) attributable to Ultralife or other consolidated statement of operations data prepared in accordance with U.S. GAAP. Some of these limitations include, but are not limited to, the following:

- a. Adjusted EBITDA from continuing operations does not reflect (1) our cash expenditures or future requirements for capital expenditures or contractual commitments; (2) changes in, or cash requirements for, our working capital needs; (3) the interest expense, or the cash requirements necessary to service interest or principal payments, on our debt; (4) income taxes or the cash requirements for any tax payments; and (5) all of the costs associated with operating our business;
- b. although depreciation and amortization are non-cash charges, the assets being depreciated and amortized often will have to be replaced in the future, and Adjusted EBITDA from continuing operations does not reflect any cash requirements for such replacements;
- c. while stock-based compensation is a component of cost of products sold and operating expenses, the impact on our consolidated financial statements compared to other companies can vary significantly due to such factors as assumed life of the stock-based awards and assumed volatility of our common stock;
- d. although discontinued operations does not reflect our current business operations, discontinued operations includes the costs we incurred by divesting of our RedBlack Communications business; and
- e. other companies may calculate Adjusted EBITDA from continuing operations differently than we do, limiting its usefulness as a comparative measure.

We compensate for these limitations by relying primarily on our U.S. GAAP results and using Adjusted EBITDA from continuing operations only supplementally. Adjusted EBITDA from continuing operations is calculated as follows for the periods presented:

	Years ended December 31,	
	2015	2014
Net income (loss) attributable to Ultralife	\$ 2,869	\$ (2,116)
Add:		
Interest expense, net	245	205
Income tax provision	310	268
Depreciation and amortization of financing fees	2,472	2,918
Amortization of intangible assets	235	305
MRC trademark impairment	150	—
Stock-based compensation expense	571	1,003
Loss from discontinued operations, net of tax	—	61
Loss on asset disposal	114	298
Adjusted EBITDA	<u>\$ 6,966</u>	<u>\$ 2,942</u>

## Liquidity and Capital Resources

### *Cash Flows and General Business Matters*

The following cash flow information is being presented net of continuing and discontinued operations.

As of December 31, 2015, cash and cash equivalents totaled \$14,533 (including restricted cash of \$140), a decrease of \$3,333 from the beginning of the year. During the year ended December 31, 2015, we generated \$8,551 of cash from operating activities as compared to generating \$3,665 of cash for the year ended December 31, 2014. In 2015, the cash generated from operating activities was a result of our net income of \$2,840 plus an add-back of \$3,542 for non-cash expenses of depreciation, amortization, loss on disposal of equipment and improvements, and stock-based compensation. Working capital changes accounted for \$2,169 of the operating cash generation, due mainly to a decrease in inventory, offset by a decline in our accounts payable and other liabilities. In 2014, the cash generated from operating activities was caused by our net loss of \$2,131 plus an add-back of \$4,434 for non-cash expenses of depreciation, amortization, and stock-based compensation. Working capital changes accounted for \$1,301 of the operating cash generation, due mainly to an increase in accounts receivable, partially offset by a decline in our accounts payable and other liabilities.

We used \$2,910 in cash for investing activities during 2015 compared with \$1,385 in cash used for investing activities in 2014. In 2014, we spent \$1,653 to purchase plant, property, and equipment and \$268 of cash became unrestricted. In 2015, we spent \$2,910 to purchase plant, property and equipment. The year-over-year increase in cash paid for capital expenditures was due primarily to the 2015 payment of equipment of pertaining to our Communications business that was installed in 2014.

We used \$8,868 in cash for financing activities during 2015, compared to \$751 in cash for financing activities during 2014. We spent \$9,388 to repurchase treasury stock in 2015 compared to \$762 in 2014, and we received \$538 and \$11 in 2015 and 2014, respectively, in funds from the issuance of common stock in connection with the exercise of stock options by our employees. In 2015, we used \$18 for tax withholdings related to the vesting of restricted shares.

Although we carry a full reserve for our deferred tax asset as of both December 31, 2015 and 2014, we continue to have significant U.S. NOLs available to us to utilize as an offset to taxable income. As of December 31, 2015, none of our U.S. NOLs have expired. See Note 11 in our Notes to the Consolidated Financial Statements for additional information.

Inventory turnover for the year ended December 31, 2015 averaged 2.1 turns compared to 1.7 turns for 2014. The increase in this metric is due mainly to higher sales year over year and a 9% reduction in average inventory over that same period.

Our order backlog at December 31, 2015 was approximately \$26,900, an increase of approximately \$12,100 over the backlog at December 31, 2014, which was \$14,800. The increase is primarily due to higher demand from OEMs for our medical batteries, demand for primary batteries from the U.S. Department of Defense, chargers from an international large defense prime contractor, our new products in other commercial markets, and the award of an \$8,200 order through an OEM for the U.S. Army for our new MRC product – Vehicle Installed Power Enhanced Rifleman Appliqué (“VIPER”). A large majority of the 2015 backlog is related to orders that are expected to ship throughout 2016.

As of December 31, 2015, we had made commitments to purchase approximately \$511 of production machinery and equipment, which we expect to fund through operating cash flows.

In January 2016, we acquired Accutronics Limited (“Accutronics”) as disclosed in Note 3 to our Consolidated Financial Statements. The purchase price of £7,708 million (approximately \$11.2 million) was funded out of our cash. Based on operating cash flows and working capital management, including further reductions of inventory, we expect that a significant portion of the cash used will be restored over the course of 2016.

*Debt and Lease Commitments*

On May 24, 2013, we entered into a Revolving Credit, Guaranty and Security Agreement (the “Credit Agreement”) and related security agreements with PNC Bank, National Association (“PNC”) to establish a \$20 million secured asset-based revolving credit facility that includes a \$1 million letter of credit subfacility (the “Credit Facility”). The Credit Agreement provides that the Credit Facility may be increased with PNC’s concurrence to \$35 million prior to the last six months of the term and expires on May 24, 2017. The Credit Facility replaces the prior credit facility with RBS Business Capital, a division of RBS Asset Finance, Inc., which expired in accordance with its terms on May 15, 2013, with no debt outstanding.

Our available borrowing limit under the Credit Facility fluctuates from time to time based on a borrowing base formula equal to the sum of up to 85% of eligible accounts receivable plus the least of (a) up to 65% of the eligible inventory and eligible foreign in-transit inventory, (b) up to 85% of the appraised net orderly liquidation value of eligible inventory and eligible foreign in-transit inventory, and (c) \$7.5 million, in each case subject to the definitions in the Credit Agreement and reserves required by PNC.

Interest is payable quarterly and will accrue on outstanding indebtedness under the Credit Agreement at the alternate base rate, as defined in the Credit Agreement, plus the applicable margin or at the one, two or three month LIBOR rate plus the applicable margin as selected by us from time to time and listed below.

<b>Quarterly Average Undrawn Borrowing Availability</b>	<b>Applicable Margin for Alternate Base Rate Loans</b>	<b>Applicable Margin for LIBOR Rate Loans</b>
Greater than \$8,000,000	1.00%	2.00%
\$5,000,000 up to \$8,000,000	1.25%	2.25%
Less than \$5,000,000	1.50%	2.50%

We must pay a fee on the Credit Facility’s unused availability of 0.375% per annum and customary letter of credit fees in addition to various collateral monitoring and related fees and expenses.

In addition to customary affirmative and negative covenants, we must maintain a fixed charge coverage ratio as defined in the Credit Agreement of 1:15 to 1:00 tested quarterly for the four-quarters then ended. As of December 31, 2015, we were in compliance with all covenants. The Credit Facility is secured by substantially all our assets.

Any outstanding advances must be repaid upon expiration of the term of the Credit Facility. Payments must be made during the term to the extent outstanding advances exceed the maximum amount then permitted to be drawn as advances under the Credit Facility and from the proceeds of certain transactions. Upon the occurrence of an event of default, the outstanding obligations may be accelerated and PNC will have other customary remedies.

As of December 31, 2015, we had no amount outstanding under the Credit Facility, an applicable interest rate of 2.43%, approximately \$8,927 of borrowing capacity in addition to our unrestricted cash on hand of \$14,393, and no outstanding letters of credit related to the Credit Facility.

See Note 8 in the Notes to Consolidated Financial Statements for additional information.

## *Other Matters*

With respect to our battery products, we typically offer warranties against any defects due to product manufacture or workmanship for up to one year from the date of purchase. With respect to our communications accessory products, we typically offer a three-year warranty. We provide for a reserve for these potential warranty expenses, which is based on an analysis of historical warranty issues. There is no assurance that future warranty claims will be consistent with past history, and in the event we experience a significant increase in warranty claims, there is no assurance that our reserves would be sufficient. This could have a material adverse effect on our business, financial condition and results of operations.

We participated in and provided technical assistance in support of an investigation conducted by a downstream customer and regulatory authorities with regard to a 2013 fire that damaged an unoccupied Boeing 787 Dreamliner aircraft parked at London Heathrow Airport. A final report was issued by the regulatory authorities, with findings indicating that the fire was likely caused by circumstances related to the plane's emergency locator transmitter (ELT), manufactured by another company. A component of the ELT is a battery pack incorporating Ultralife's industry-standard lithium manganese dioxide non-rechargeable D cell.

## **Off-Balance Sheet Arrangements**

We have no off-balance sheet arrangements.

## **Critical Accounting Policies and Estimates**

The above discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with U.S. GAAP. The preparation of these financial statements requires management to make estimates and assumptions that affect amounts reported therein. The estimates and assumptions that require management's most difficult, subjective or complex judgments are described below.

### Revenue recognition:

**Product Sales** – In general, revenues from the sale of products are recognized when products are shipped. When products are shipped with terms that require transfer of title upon delivery at a customer's location, revenues are recognized on date of delivery. A provision is made at the time the revenue is recognized for warranty costs expected to be incurred. Customers, including distributors, do not have a general right of return on products shipped.

**Technology Contracts** – We recognize revenue using the proportional method, measured by the percentage of actual costs incurred to date to the total estimated costs to complete the contract. Elements of cost include direct material, labor and overhead. If a loss on a contract is estimated, the full amount of the loss is recognized immediately. We allocate costs to all technology contracts based upon actual costs incurred including an allocation of certain research and development costs incurred.

**Deferred Revenue** - For each source of revenues, we defer recognition if: i) evidence of an agreement does not exist, ii) delivery or service has not occurred, iii) the selling price is not fixed or determinable, or iv) collectability is not reasonably assured.

**Valuation of Inventory:**

Inventories are stated at the lower of cost or market, with cost determined using the first-in, first-out (“FIFO”) method. Our inventory includes raw materials, work in process and finished goods. We record provisions for excess, obsolete or slow moving inventory based on changes in customer demand, technology developments or other economic factors. The factors that contribute to inventory valuation risks are our purchasing practices, material and product obsolescence, accuracy of sales and production forecasts, introduction of new products, product lifecycles, product support and foreign regulations governing hazardous materials (see Item 1A – Risk Factors for further information on foreign regulations). We manage our exposure to inventory valuation risks by maintaining safety stocks, minimum purchase lots, managing product end-of-life issues brought on by aging components or new product introductions, and by utilizing certain inventory minimization strategies such as vendor-managed inventories. We believe that the accounting estimate related to valuation of inventories is a “critical accounting estimate” because it is susceptible to changes from period-to-period due to the requirement for management to make estimates relative to each of the underlying factors ranging from purchasing, to sales, to production, to after-sale support. If actual demand, market conditions or product lifecycles are adversely different from those estimated by management, inventory adjustments to lower market values would result in a reduction to the carrying value of inventory, an increase in inventory write-offs and a decrease in gross margins.

**Warranties:**

We maintain provisions related to normal warranty claims by customers. We evaluate these reserves quarterly based on actual experience with warranty claims to date and our assessment of additional claims in the future. There is no assurance that future warranty claims will be consistent with past history, and in the event we experience a significant increase in warranty claims, there is no assurance that our reserves would be sufficient.

**Impairment of Long-Lived Assets:**

We regularly assess all of our long-lived assets for impairment when events or circumstances indicate their carrying amounts may not be recoverable. This is accomplished by comparing the expected undiscounted future cash flows of the assets with the respective carrying amount as of the date of assessment. Should aggregate future cash flows be less than the carrying value, a write-down would be required, measured as the difference between the carrying value and the fair value of the asset. Fair value is estimated either through the assistance of an independent valuation or as the present value of expected discounted future cash flows. The discount rate used by us in our evaluation approximates our weighted average cost of capital. If the expected undiscounted future cash flows exceed the respective carrying amount as of the date of assessment, no impairment charge is recognized.

**Environmental Issues:**

Environmental expenditures, if any, that relate to current operations are generally expensed. Remediation costs that relate to an existing condition caused by past operations are accrued when it is probable that these costs will be incurred and can be reasonably estimated.

**Goodwill and Other Intangible Assets:**

The purchase price paid to effect an acquisition is allocated to the acquired tangible and intangible assets and liabilities at fair value. We do not amortize goodwill and intangible assets with indefinite lives, but instead evaluate these assets for impairment at least annually, or when events indicate that impairment exists. We amortize intangible assets that have definite lives so that the economic benefits of the intangible assets are being utilized over their weighted-average estimated useful life.

The impairment analysis of goodwill consists first of a review of various qualitative factors of the identified reporting units to determine whether it is more likely than not that the fair value of a reporting unit exceeds its carrying amount, including goodwill. This review includes, but is not limited to, an evaluation of the macroeconomic, industry or market, and cost factors relevant to the reporting unit as well as financial performance and entity or reporting unit events that may affect the value of the reporting unit. If this review leads to the determination that it is more likely than not that the fair value of the reporting unit is greater than its carrying amount, further impairment testing is not required. However, if this review cannot support a conclusion that it is more likely than not that the fair value of the reporting unit is greater than its carrying amount, or at our discretion, quantitative impairment steps are performed. Similarly, the analysis for indefinite-lived intangible assets consists of a review of various qualitative factors to determine if it is more likely than not that the indefinite-lived intangible asset is not impaired. If we conclude that it is more likely than not that we cannot support that the indefinite-lived asset is not impaired, or at our discretion, quantitative impairment steps are performed.

The quantitative impairment test for goodwill consists of a comparison of the fair value of the reporting unit with the carrying amount of the reporting unit to which it is assigned. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is considered not impaired. If the carrying amount of a reporting unit exceeds its fair value, a second step of the goodwill impairment test is performed to measure the amount of impairment loss, if any. The impairment test for intangible assets with indefinite lives consists of a comparison of the fair value of the intangible assets with their carrying amounts. If the carrying value of the intangible assets exceeds the fair value, an impairment loss is recognized in an amount equal to that excess. We determine the fair value of the reporting unit for goodwill impairment testing based on a discounted cash flow model. We determine the fair value of our intangibles assets with indefinite lives (trademarks) through the royalty relief income valuation approach.

We conducted our annual impairment analysis for goodwill and intangible assets with indefinite lives as of December 31, 2015. For 2015, we identified three goodwill reporting units for analysis. We performed a quantitative analysis on these reporting units as of December 31, 2015. This testing indicated no impairment.

For 2015, we identified four trademarks for analysis. We performed annual quantitative tests on each of these trademarks. Based on these tests, we determined that an impairment amounting to \$150 was required to reduce the carrying value of our McDowell Research Corporation trademark for our Communications Systems business to its estimated fair value.

There is a possibility that our goodwill and other intangible assets, particularly in our Communications Systems business, could be impaired should there be a significant change in our internal forecasts and other assumptions we use in our impairment analysis.

#### Stock-Based Compensation:

We recognize compensation cost relating to share-based payment transactions in our financial statements. The cost is measured at the grant date, based on the fair value of the award, and is recognized as an expense over the employee's requisite service period (generally the vesting period of the equity award). We calculate expected volatility for stock options by taking an average of historical volatility over the past five years and a computation of implied volatility. The computation of expected term was determined based on historical experience of similar awards, giving consideration to the contractual terms of the stock-based awards and vesting schedules. The interest rate for periods within the contractual life of the award is based on the U.S. Treasury yield in effect at the time of grant. If required, our market based awards are valued using a Monte Carlo simulation.

#### Income Taxes:

We account for income taxes using the asset and liability method. Under this method, deferred tax assets and liabilities are determined based on differences between financial reporting and tax basis of assets and liabilities and are measured using the enacted tax rates and laws that may be in effect when the differences are expected to reverse.

In 2015 and 2014, in the U.S. and the U.K., we continued to report a valuation allowance for our deferred tax assets that cannot be offset by reversing temporary differences. This results from the conclusion that, based on past history, it is more likely than not that we would not be able to utilize our U.S. and U.K. net operating losses ("NOLs") that had accumulated over time. The recognition of a valuation allowance on our deferred tax assets resulted from our evaluation of all available evidence, both positive and negative. The assessment of the realizability of the NOLs was based on a number of factors including, our history of net operating losses, the volatility of our earnings, our historical operating volatility, our historical inability to accurately forecast earnings for future periods and the continued uncertainty of the general business climate. We concluded that these historical factors represent sufficient negative evidence and have concluded that we should continue to record a full valuation allowance at December 31, 2015. We currently carry a deferred tax asset in China that we have determined does not require a valuation allowance as we are more likely than not to fully utilize the NOL in China. We continually assess the carrying value of this asset based on relevant accounting standards.

#### **ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

As a smaller reporting company, we are not required to provide this information.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

The financial statements and schedules listed in Item 15(a)(1) are included in this Report beginning on page 41.

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Consolidated Financial Statements:	
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**Report of Independent Registered Public Accounting Firm**

To the Board of Directors and Shareholders of  
Ultralife Corporation

We have audited the accompanying consolidated balance sheets of Ultralife Corporation as of December 31, 2015 and 2014, and the related consolidated statements of operations and comprehensive income (loss), shareholders' equity, and cash flows for each of the years in the two-year period ended December 31, 2015. Ultralife Corporation's management is responsible for these financial statements. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Ultralife Corporation as of December 31, 2015 and 2014, and the results of its operations and its cash flows for each of the years in the two-year period ended December 31, 2015 in conformity with accounting principles generally accepted in the United States of America.

/s/ Bonadio & Co., LLP  
Pittsford, New York  
March 2, 2016



**ULTRALIFE CORPORATION AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**  
(Dollars in Thousands)

**ASSETS**

	December 31,	
	2015	2014
<b>Current assets:</b>		
Cash and cash equivalents	\$ 14,393	\$ 17,711
Restricted cash	140	155
Trade accounts receivable, net of allowance for doubtful accounts of \$300 and \$340, respectively	11,430	11,295
Inventories, net	23,814	26,086
Prepaid expenses and other current assets	1,900	1,313
Due from insurance company	177	184
Deferred income taxes	92	106
<b>Total current assets</b>	<b>51,946</b>	<b>56,850</b>
Property, equipment and improvements, net	9,038	9,812
Goodwill	16,283	16,407
Other intangible assets, net	3,946	4,338
Security deposits and other non-current assets	309	235
<b>Total assets</b>	<b>\$ 81,522</b>	<b>\$ 87,642</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
<b>Current liabilities:</b>		
Accounts payable	\$ 6,494	\$ 6,996
Accrued compensation and related benefits	2,377	1,725
Accrued expenses and other current liabilities	1,749	2,421
Income taxes payable	227	69
<b>Total current liabilities</b>	<b>10,847</b>	<b>11,211</b>
Deferred income taxes	4,631	4,462
Other non-current liabilities	28	56
<b>Total liabilities</b>	<b>15,506</b>	<b>15,729</b>
Commitments and contingencies (Note 9)		
<b>Shareholders' equity:</b>		
Preferred stock – par value \$.10 per share; authorized 1,000,000 shares; none issued	—	—
Common stock – par value \$.10 per share; authorized 40,000,000 shares; issued – 19,181,815 shares and 18,941,544 shares, respectively; outstanding – 15,322,155 shares and 17,340,813 shares, respectively	1,918	1,894
Capital in excess of par value	177,007	175,940
Accumulated deficit	(94,051)	(96,920)
Accumulated other comprehensive loss	(907)	(467)
Treasury stock - at cost; 3,859,660 shares and 1,600,731 shares at December 31, 2015 and 2014, respectively	(17,808)	(8,420)
<b>Total Ultralife equity</b>	<b>66,159</b>	<b>72,027</b>
Noncontrolling interest	(143)	(114)
<b>Total shareholders' equity</b>	<b>66,016</b>	<b>71,913</b>
<b>Total liabilities and shareholders' equity</b>	<b>\$ 81,522</b>	<b>\$ 87,642</b>

The accompanying notes are an integral part of these consolidated financial statements.

ULTRALIFE CORPORATION AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)  
(Dollars in Thousands, except Per Share Amounts)

	Years ended December 31,	
	2015	2014
<b>Revenues</b>	\$ 76,427	\$ 66,494
<b>Cost of products sold</b>	53,111	47,144
<b>Gross profit</b>	<u>23,316</u>	<u>19,350</u>
<b>Operating expenses:</b>		
Research and development	5,603	5,333
Selling, general and administrative	14,233	15,460
Intangible asset impairment	150	—
Total operating expenses	<u>19,986</u>	<u>20,793</u>
<b>Operating income (loss)</b>	3,330	(1,443)
<b>Other (expense) income:</b>		
Interest income	3	13
Interest and financing expense	(248)	(218)
Miscellaneous	65	(154)
<b>Income (loss) from continuing operations before income taxes</b>	3,150	(1,802)
Income tax provision	310	268
<b>Net income (loss) from continuing operations</b>	2,840	(2,070)
Loss from discontinued operations, net of tax	—	(61)
<b>Net income (loss)</b>	2,840	(2,131)
Net loss attributable to noncontrolling interest	29	15
<b>Net income (loss) attributable to Ultralife</b>	2,869	(2,116)
<b>Other comprehensive (loss) income:</b>		
Foreign currency translation adjustments	(440)	147
<b>Comprehensive income (loss) attributable to Ultralife</b>	<u>\$ 2,429</u>	<u>\$ (1,969)</u>
<b>Net income (loss) per share attributable to Ultralife common shareholders – basic:</b>		
Continuing operations	\$ .18	\$ (.12)
Discontinued operations	—	(.00)
Total	<u>\$ .18</u>	<u>\$ (.12)</u>
<b>Net income (loss) per share attributable to Ultralife common shareholders – diluted:</b>		
Continuing operations	\$ .17	\$ (.12)
Discontinued operations	—	(.00)
Total	<u>\$ .17</u>	<u>\$ (.12)</u>
<b>Weighted average shares outstanding – basic</b>	<u>16,182</u>	<u>17,475</u>
<b>Weighted average shares outstanding – diluted</b>	<u>16,458</u>	<u>17,475</u>

The accompanying notes are an integral part of these consolidated financial statements.

ULTRALIFE CORPORATION AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY  
(Dollars in Thousands)

	Common Stock		Capital in Excess of Par Value	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Treasury Stock	Non- Controlling Interest	Total
	Number of Shares	Amount						
Balance –								
December 31, 2013	18,851,579	\$ 1,885	\$ 174,935	\$ (614)	\$ (94,804)	\$ (7,658)	\$ (99)	\$ 73,645
Purchases of stock						(762)		(762)
Shares issued to directors	56,898	6	204					210
Vesting of restricted shares	30,000	3	(3)					
Stock option exercises	3,067		11					11
Stock-based compensation -								
Stock options			614					614
Restricted stock			179					179
Foreign currency translation adjustments				147				147
Net loss					(2,116)		(15)	(2,131)
Balance –								
December 31, 2014	18,941,544	\$ 1,894	\$ 175,940	\$ (467)	\$ (96,920)	\$ (8,420)	\$ (114)	\$ 71,913
Purchases of stock						(9,388)		(9,388)
Vesting of restricted shares	102,334	10	(28)					(18)
Stock option exercises	137,937	14	524					538
Stock-based compensation -								
Stock options			489					489
Restricted stock			82					82
Foreign currency translation adjustments				(440)				(440)
Net income					2,869		(29)	2,840
Balance –								
December 31, 2015	<u>19,181,815</u>	<u>\$ 1,918</u>	<u>\$ 177,007</u>	<u>\$ (907)</u>	<u>\$ (94,051)</u>	<u>\$ (17,808)</u>	<u>\$ (143)</u>	<u>\$ 66,016</u>

The accompanying notes are an integral part of these consolidated statements.

**ULTRALIFE CORPORATION AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(In Thousands)  
(unaudited)

	Years ended December 31,	
	2015	2014
<b>OPERATING ACTIVITIES:</b>		
Net income (loss)	\$ 2,840	\$ (2,131)
Loss from discontinued operations, net of tax	—	61
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation and amortization of financing fees	2,472	2,828
Amortization of intangible assets	235	305
Intangible asset impairment	150	—
Loss on other long-lived asset impairment and disposals	114	298
Stock-based compensation	571	1,003
Changes in deferred income taxes	183	196
Provision for allowance for doubtful accounts	(22)	52
Changes in operating assets and liabilities:		
Accounts receivable	(217)	2,878
Inventories	2,101	(46)
Prepaid expenses and other assets	(757)	249
Income taxes receivable and payable	158	(25)
Accounts payable and other liabilities	723	(2,003)
Net cash provided by operating activities	<u>8,551</u>	<u>3,665</u>
<b>INVESTING ACTIVITIES:</b>		
Cash paid for property, equipment and improvements	(2,910)	(1,653)
Change in restricted cash	—	268
Net cash used in investing activities	<u>(2,910)</u>	<u>(1,385)</u>
<b>FINANCING ACTIVITIES:</b>		
Cash paid to repurchase treasury stock	(9,388)	(762)
Proceeds from exercise of stock options	538	11
Vesting of restricted shares – tax withholdings	(18)	—
Net cash used in financing activities	<u>(8,868)</u>	<u>(751)</u>
Effect of exchange rate changes on cash and cash equivalents	(91)	116
<b>(DECREASE) INCREASE IN CASH AND CASH EQUIVALENTS</b>	<u>(3,318)</u>	<u>1,645</u>
Cash and cash equivalents, beginning of period	17,711	16,066
Cash and cash equivalents, end of period	<u>\$ 14,393</u>	<u>\$ 17,711</u>
<b>NON-CASH ITEMS:</b>		
Construction in process in accounts payable	\$ —	\$ 1,019
Income taxes paid	52	60
Interest paid	<u>150</u>	<u>76</u>

The accompanying notes are an integral part of these consolidated financial statements.

**ULTRALIFE CORPORATION**  
**Notes to Consolidated Financial Statements**  
(Dollars in Thousands, Except Per Share Amounts)

**Note 1 - Summary of Operations and Significant Accounting Policies**

*a. Description of Business*

We offer products and services ranging from power solutions to communications and electronics systems. Through our engineering and collaborative approach to problem solving, we serve government, defense and commercial customers across the globe. We design, manufacture, install and maintain power and communications systems including: rechargeable and non-rechargeable batteries, charging systems, communications and electronics systems and accessories, and custom engineered systems. We sell our products worldwide through a variety of trade channels, including original equipment manufacturers (“OEMs”), industrial and defense supply distributors, and directly to U.S. and international defense departments.

*b. Principles of Consolidation*

The consolidated financial statements are prepared in accordance with generally accepted accounting principles in the United States (“GAAP”) and include the accounts of Ultralife Corporation, our wholly-owned subsidiaries, Ultralife Batteries (UK) Ltd. (“Ultralife UK”), ABLE New Energy Co., Limited, and its wholly-owned subsidiary ABLE New Energy Co., Ltd. (“ABLE” collectively), and our majority-owned subsidiary Ultralife Batteries India Private Limited (“India JV”). Intercompany accounts and transactions have been eliminated in consolidation.

Final adjustments relating to the divested operations of RedBlack Communications, Inc. (“RedBlack”) are reported as discontinued operations in the 2014 statement of operations.

*c. Management's Use of Judgment and Estimates*

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at year end and the reported amounts of revenues and expenses during the reporting period. Key areas affected by estimates include: (a) carrying value of goodwill and intangible assets; (b) reserves for deferred tax assets, excess and obsolete inventory, warranties, and bad debts; (c) profitability on development contracts, if any; (d) various expense accruals; and (e) stock-based compensation. Our actual results could differ from these estimates.

*d. Reclassifications*

Certain items previously reported in specific financial statement captions have been reclassified to conform to the current presentation.

*e. Cash and Cash Equivalents*

For purposes of the Consolidated Statements of Cash Flows, we consider all demand deposits with financial institutions and financial instruments with original maturities of three months or less to be cash equivalents. For purposes of the Consolidated Balance Sheet, the carrying value approximates fair value because of the short maturity of these instruments.

Our cash balances may at times exceed federally insured limits. We have not experienced any losses in these accounts and believe we are not exposed to any significant risk with respect to cash and cash equivalents.

f. *Accounts Receivable and Allowance for Doubtful Accounts*

We extend credit to our customers in the normal course of business. We perform ongoing credit evaluations and generally do not require collateral. Trade accounts receivable are recorded at their invoiced amounts, net of allowance for doubtful accounts. We evaluate the adequacy of our allowance for doubtful accounts quarterly. Accounts outstanding longer than contractual payment terms are considered past due and are reviewed individually for collectability. We maintain reserves for potential credit losses based upon our loss history and specific receivables aging analysis. Receivable balances are written off when collection is deemed unlikely.

Changes in our allowance for doubtful accounts during the years ended December 31, 2015 and 2014 were as follows:

	2015	2014
Balance at beginning of year	\$ 340	\$ 288
Amounts charged to expense	31	52
Net write-offs (recoveries)	(53)	—
Foreign currency translation	(18)	—
Total	<u>\$ 300</u>	<u>\$ 340</u>

g. *Inventories*

Inventories are stated at the lower of cost or market with cost determined under the first-in, first-out (FIFO) method. We record provisions for excess, obsolete or slow-moving inventory based on changes in customer demand, technology developments or other economic factors.

h. *Property, Plant and Equipment*

Property, plant and equipment are stated at cost. Estimated useful lives are as follows:

- Buildings 10 – 20 years
- Machinery and Equipment 5 – 10 years
- Furniture and Fixtures 3 – 10 years
- Computer Hardware and Software 3 – 5 years
- Leasehold Improvements Lesser of useful life or lease term

Depreciation and amortization are computed using the straight-line method. Betterments, renewals and extraordinary repairs that extend the life of the assets are capitalized. Other repairs and maintenance costs are expensed when incurred. When disposed, the cost and accumulated depreciation applicable to assets retired are removed from the accounts and the gain or loss on disposition is recognized in operating income (expense).

i. *Long-Lived Assets, Goodwill and Intangibles*

We regularly assess all of our long-lived assets for impairment when events or circumstances indicate that their carrying amounts may not be recoverable. For property, plant and equipment and amortizable intangible assets, this is accomplished by comparing the expected undiscounted future cash flows of the assets with the respective carrying amount as of the date of assessment. Should aggregate future cash flows be less than the carrying value, a write-down would be required, measured as the difference between the carrying value and the fair value of the asset. Fair value is estimated either through the assistance of an independent valuation or as the present value of expected discounted future cash flows. The discount rate used by us in our evaluation approximates our weighted average cost of capital. If the expected undiscounted future cash flows exceed the respective carrying amount as of the date of assessment, no impairment is recognized. We did not record any impairments of property, plant and equipment or amortizable intangible assets in the years ended December 31, 2015 or 2014.

We do not amortize goodwill and intangible assets with indefinite lives, but instead measure these assets for impairment at least annually, or when events indicate that impairment may exist. We amortize intangible assets that have definite lives so that the economic benefits of the intangible assets are being recognized as expense over their weighted-average estimated useful lives.

The impairment analysis of goodwill consists first of a review of various qualitative factors of the identified reporting units to determine whether it is more likely than not that the fair value of a reporting unit exceeds its carrying amount, including goodwill. This review includes, but is not limited to, an evaluation of the macroeconomic, industry or market, and cost factors relevant to the reporting unit as well as financial performance and entity or reporting unit events that may affect the value of the reporting unit. If this review leads to the determination that it is more likely than not that the fair value of the reporting unit is greater than its carrying amount, further impairment testing is not required. However, if this review cannot support such a conclusion, or at our discretion, quantitative impairment steps are performed. Similarly, the analysis for indefinite-lived intangible assets consists of review of various qualitative factors to determine if it is more likely than not that the indefinite-lived intangible asset is not impaired. If such a conclusion cannot be supported, or at our discretion, quantitative impairment steps are performed.

The quantitative impairment test for goodwill consists of a comparison of the fair value of the reporting unit with the carrying amount of the reporting unit to which it is assigned. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is considered not impaired. If the carrying amount of a reporting unit exceeds its fair value, a second step of the goodwill impairment test is performed to measure the amount of impairment loss, if any. The impairment test for intangible assets with indefinite lives consists of a comparison of the fair value of the intangible assets with their carrying amounts. If the carrying value of the intangible assets exceeds the fair value, an impairment loss is recognized in an amount equal to that excess. We determine the fair value of the reporting unit for goodwill impairment testing based on a discounted cash flow model. We determine the fair value of our intangibles assets with indefinite lives (trademarks) through the royalty relief income valuation approach.

Due to time delays in the awarding by government/defense customers in recent years of certain large projects in our Communications Systems segment, we recorded a partial impairment of our McDowell Research, Ltd. trademark in the year ended December 31, 2015. This impairment amounted to \$150. No impairments of long-lived intangible assets were recorded in the year ended December 31, 2014.

Future amortization expense of amortizable intangible assets will be approximately \$166, \$121, \$85, \$62 and \$49 for the fiscal years ending December 31, 2016 through 2020, respectively, and \$52 thereafter.

*j. Translation of Foreign Currency*

The financial statements of our foreign subsidiaries are translated into U.S. dollar equivalents, with translation adjustments recorded as a component of accumulated other comprehensive income. Exchange gains and (losses) relate to foreign currency transactions and balances included in net income (loss) for the years ended December 31, 2015 and 2014 were \$48 and \$(235), respectively.

*k. Revenue Recognition*

**Product Sales** – In general, revenues from the sale of products are recognized when products are shipped. When products are shipped with terms that require transfer of title upon delivery at a customer's location, revenues are recognized on the date of delivery. A provision is made at the time the revenue is recognized for warranty costs expected to be incurred. Customers, including distributors, do not have a general right of return on products shipped.

**Technology Contracts** – We recognize revenue using the proportional effort method based on the relationship of costs incurred to date to the total estimated cost to complete the contract. Elements of cost include direct material, labor and overhead. If a loss on a contract is estimated, the full amount of the loss is recognized immediately. We allocate costs to all technology contracts based upon actual costs incurred including an allocation of certain research and development costs incurred.

**Deferred Revenue** – For each source of revenues, we defer recognition if: i) evidence of an agreement does not exist, ii) delivery or service has not occurred, iii) the selling price is not fixed or determinable, or iv) collectability is not reasonably assured.

#### *l. Warranty Reserves*

We estimate future costs associated with expected product failure rates, material usage and service costs in the development of our warranty obligations. Warranty reserves, included in other current liabilities and other long-term liabilities as applicable on our Consolidated Balance Sheets, are based on historical experience of warranty claims. In the event the actual results of these items differ from the estimates, an adjustment to the warranty obligation would be recorded.

#### *m. Shipping and Handling Costs*

Costs incurred by us related to shipping and handling are included in cost of products sold. Amounts charged to customers pertaining to these costs are reflected as revenue.

#### *n. Advertising Expenses*

Advertising costs are expensed as incurred and are included in selling, general and administrative expenses in the accompanying Consolidated Statements of Operations. Such expenses amounted to \$59 and \$43 for the years ended December 31, 2015 and 2014, respectively.

#### *o. Research and Development*

Research and development expenditures are charged to operations as incurred. The majority of research and development expenses pertain to salaries and benefits, developmental supplies, depreciation and other contracted services. During 2015 and 2014, we expended \$6,112 and \$5,648, respectively, on research and development, including \$509 and \$315, respectively, on customer sponsored research and development activities, which are included in cost of goods sold. We recognized \$509 and \$317 of revenue relating to these activities during 2015 and 2014, respectively.

In 2011, we entered into a collaboration agreement with the New York State Energy Research and Development Authority (“NYSERDA”), to develop and demonstrate a large hybrid grid-connected energy storage system. This agreement was terminated by NYSERDA in the second quarter of 2013, per the terms of the agreement. We had planned to continue this project internally with smaller form batteries which provide greater opportunity and applicability in the markets we serve. However, we decided not to further pursue the development of this project, and recorded a write-off of capitalized costs totaling \$161 in 2014 relating to this project.

#### *p. Environmental Costs*

Environmental expenditures that relate to current operations are expensed. Remediation costs that relate to an existing condition caused by past operations are accrued when it is probable that these costs will be incurred and can be reasonably estimated.

#### *q. Income Taxes*

We account for income taxes using the asset and liability method. Under this method, deferred tax assets and liabilities are determined based on differences between financial reporting and tax basis of assets and liabilities and are measured using the enacted tax rates and laws that are expected to be in effect when the differences are expected to reverse.

A valuation allowance is required when it is more likely than not that the recorded value of a deferred tax asset will not be realized. As of December 31, 2015, we continued to recognize a valuation allowance in the U.S. and U.K. on our net deferred tax assets to the extent that temporary tax differences and the U.S. and U.K. net operating loss and tax credit carryforwards resulting in the deferred tax asset are not able to be offset by future reversing temporary differences. The assessment of the realizability of the U.S. NOL was based on a number of historical factors including, our history of net operating losses, the volatility of our earnings, our historical operating volatility, our historical inability to accurately forecast earnings for future periods and the continued uncertainty of the general business climate as of the end of 2015. We concluded that these historical factors represent sufficient negative evidence and have concluded that we should record a full valuation allowance against these net deferred tax assets. We also recorded a full valuation allowance on our net deferred tax asset for the year ended December 31, 2014.



At December 31, 2014, we had unrecognized tax benefits related to uncertain tax positions which were recorded as a decrease in our net operating loss carryforward. We had not recorded any interest or penalty in regard to any unrecognized benefit. Interest and penalties would begin to accrue in the period in which the NOLs related to the uncertain tax positions are utilized. Our policy regarding interest and/or penalties related to income tax matters is to recognize such items as a component of income tax expense (benefit). We recorded the release of this unrecognized tax benefit amount during 2015 upon the conclusion of a federal tax examination, resulting in a \$21.4 million increase in the amount of our reported domestic NOL carryforward.

r. *Concentration Related to Customers and Suppliers*

During the years ended December 31, 2015 and 2014, we had one major customer, a large defense primary contractor, which comprised 24% and 18% of our revenues, respectively. There were no other customers that comprised greater than 10% of our total revenues during these years.

We had no customers who comprised 10% or more of our trade accounts receivable at December 31, 2015. We had one customer who comprised 16% of our trade accounts receivable at December 31, 2014.

Currently, we do not experience significant seasonal trends in our revenues. Since a significant portion of our revenues are based on purchases from U.S. and allied country defense departments, the timing of our sales could be impacted by delays in the government budget process and the decisions to deploy resources to support military purchases of our products.

We generally do not distribute our products to a concentrated geographical area nor is there a significant concentration of credit risks arising from individuals or groups of customers engaged in similar activities, or who have similar economic characteristics. While direct and indirect sales to the U.S. Department of Defense have been substantial during 2015 and 2014, we do not consider this customer to be a significant credit risk. We do not normally obtain collateral on trade accounts receivable.

Certain materials and components used in our products are available only from a single or a limited number of suppliers. As such, some materials and components could become in short supply resulting in limited availability and/or increased costs. Additionally, we may elect to develop relationships with a single or limited number of suppliers for materials and components that are otherwise generally available. Although we believe that alternative suppliers are available to supply materials and components that could replace materials and components currently used and that, if necessary, we would be able to redesign our products to make use of such alternatives, any interruption in the supply from any supplier that serves as a sole source could delay product shipments and have a material adverse effect on our business, financial condition and results of operations. We have experienced interruptions of product deliveries by sole source suppliers in the past.

s. *Fair Value Measurements and Disclosures*

Fair value is defined as the price that would be received for an asset or the exit price that would be paid to transfer a liability in the principal or most advantageous market in an orderly transaction between market participants on the measurement date. Fair value is estimated by applying the following hierarchy, which prioritizes the inputs used to measure fair value into three levels and bases the categorization within the hierarchy upon the lowest level of input that is available and significant to the fair value measurement:

- Level 1:** Quoted prices in active markets for identical assets or liabilities.
- Level 2:** Observable inputs, other than Level 1 prices, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or that we corroborate with observable market data for substantially the full term of the related assets or liabilities.
- Level 3:** Unobservable inputs supported by little or no market activity that are significant to the fair value of the assets or liabilities.

The fair value of financial instruments approximated their carrying values at December 31, 2015 and 2014. The fair value of cash, trade accounts receivable, trade accounts payable, and accrued liabilities approximates carrying value due to the short-term nature of these instruments.

#### t. *Earnings (Loss) Per Share*

Basic earnings (loss) per share is computed by dividing net income or loss by the weighted average number of common shares outstanding for the period. Diluted earnings per share calculations reflect the assumed exercise and conversion of dilutive employee stock options and unvested restricted stock, if any, applying the treasury stock method. Diluted earnings per share in 2015 include 1,312,282 outstanding in-the-money stock options which add 260,318 shares to the number of shares outstanding, and include 32,800 restricted stock units which add 15,385 shares outstanding.

Due to the net loss in 2014, diluted earnings per share was equal to basic earnings per share, as all potential shares were anti-dilutive. Diluted earnings per share calculations exclude the effect of approximately 945,687 and 2,195,222 employee stock options and restricted stock shares in 2015 and 2014, respectively, since such options have an exercise price in excess of the weighted average market price of the Company's common stock.

#### u. *Stock-Based Compensation*

We have various stock-based employee compensation plans, which are described more fully in Note 10. The compensation cost relating to share-based payment transactions is measured at the grant date, based on the estimated fair value of the award, and is recognized as expense over the employee's requisite service period (generally the vesting period of the equity award).

#### v. *Segment Reporting*

We have two operating segments – Battery & Energy Products, and Communications Systems. The basis for determining our operating segments is the manner in which financial information is used by us in monitoring our operations. Management operates and organizes itself according to business units that comprise unique products and services across geographic locations.

#### w. *Recent Accounting Pronouncements*

In May 2014, the Financial Accounting Standards Board ("FASB") issued guidance related to revenue from contracts with customers. Under this guidance, revenue is recognized when promised goods or services are transferred to customers in an amount that reflects the consideration that is expected to be received for those goods or services. The updated standard will replace most existing revenue recognition guidance under GAAP when it becomes effective and permits the use of either the retrospective or cumulative effect transition method. The FASB has approved a one year deferral of this standard, and this pronouncement is now effective for annual reporting periods beginning after December 15, 2017, including interim periods within that reporting period and is to be applied using one of two retrospective application methods, with early application permitted for annual reporting periods beginning after December 15, 2016. While we have not completed our impact analysis, we do not expect the adoption to have a material impact on our Consolidated Financial Statements. We do not anticipate early adoption of the standard.

In July 2015, the FASB issued Accounting Standards Update No. 2015-11, "Simplifying the Measurement of Inventory," which simplifies the subsequent measurement of inventory by using only the lower of cost and net realizable value. This update does not apply to inventory measured using last-in, first-out method. This guidance is effective for fiscal years and interim periods within those years beginning after December 15, 2016, and must be applied on a retrospective basis with early adoption permitted. The adoption is not expected to have a material impact on our Consolidated Financial Statements.

In February 2016, the Financial Accounting Standards Board issued guidance relating to accounting for leases by lessors and lessees. The guidance will require, among other things, that lessees recognize a right-to-use asset and related lease liability for all significant financing and operating leases, and specifies where in the statement of cash flows the related lease payments are to be presented. The guidance is effective for years beginning after December 15, 2018 (calendar year 2019 for us), and early adoption is permitted. The Company has not yet considered the ramifications of this new standard on either our reported financial position or results of operations, but believe they may be significant. We have not yet determined whether we will adopt the standard in advance of its required effective date.

**Note 2- Dispositions, Relocations and Exit Activities**

During 2014, we were informed by local government authorities in Shenzhen, China that the lease for our facility there would not be extended, and we commenced a search for an alternate site to relocate our facility. In July 2014, our subsidiary in China entered into a lease for a replacement facility, also located in Shenzhen. During the fourth quarter of 2014, our subsidiary in China vacated its former facility premises and substantially completed a move and transition to this new facility.

The Company received compensation from the local government authorities for leasehold improvements and moving-related costs totaling \$815, of which \$596 was recognized as a reduction of expenses incurred during 2014, which expenses totaled \$841. It is the Company's policy to recognize this compensation as a reduction of expenses as the expenses are recognized. Additional government compensation totaling \$219 was recognized as a reduction of expense in 2015. The related expenses incurred in 2015 totaled \$221. The relocation payments were complete as of June 2015.

During 2014, we elected to terminate our lease for our U.K. office and repair facility which was to have expired in May 2018. The termination of this lease was effective as of January 31, 2015.

Also in 2012, we sold 100% of our ownership interest in RedBlack. During 2014, we recognized \$61 of expense in discontinued operations arising from customary post-closing working capital adjustments relating to that sale.

**Note 3 – Acquisition**

On January 13, 2016, Ultralife UK Limited (the "Merger Subsidiary"), a U.K. corporation and the Company's wholly-owned subsidiary, completed the acquisition of all of the outstanding stock of Accutronics Limited ("Accutronics"), a U.K. corporation based in Newcastle-under-Lyme, U.K., from Intrinsic Equity Limited, Catapult Growth Fund Limited Partnership, MJF Pension Trustees Limited, Robert Andrew Phillips and Michael Allen (collectively, the "Sellers"). There are no material relationships between the Company or Merger Subsidiary and any of the Sellers, other than pertaining to this acquisition.

Accutronics is a leading independent designer and manufacturer of smart batteries and charger systems for high-performance, feature-laden portable and handheld electronic devices. Accutronics will be included in our Battery & Energy Products Segment. We acquired Accutronics to advance our strategy of commercial revenue diversification, to expand our geographical penetration, and to achieve revenue growth from new product development. We expect substantial sales synergies between Accutronics and our existing commercial battery business as we cross-sell our existing products and acquired Accutronics' products to our respective customer bases.

The acquisition was completed pursuant to the terms of a Share Purchase Agreement dated January 13, 2016, by and among the Merger Subsidiary and the Sellers. The Merger Subsidiary paid an aggregate purchase price of £7.708 million (approximately \$11.2 million) in cash, including a net working capital/debt adjustment in the amount of £.133 million (approximately \$.2 million), and in exchange the Merger Subsidiary received all of the outstanding shares of Accutronics stock. Monies to fund the purchase price were advanced to the Merger Subsidiary from the Company's general corporate funds. The final allocation of the purchase price to the assets and liabilities acquired has not yet been completed.

**Note 4 – Share Repurchase Program**

On April 28, 2014, the Company's Board of Directors approved a share repurchase program (the "Share Repurchase Program") which became effective on May 1, 2014, under which the Company was authorized to repurchase up to 1.8 million shares of its outstanding common stock over a period not to exceed twelve months. The Share Repurchase Program has been extended through June 2, 2016, and the maximum number of shares authorized to be repurchased under the program has been increased to 3.4 million shares.

Share repurchases under this program are made in accordance with SEC Rule 10b-18 using a variety of methods, which may include open market purchases, privately negotiated transactions and block trades, or any combination of such methods, in compliance with applicable insider trading and other securities laws and regulations. With the exception of repurchases made during stock trading black-out periods under a 10b5-1 Plan, the timing, manner, price and amount of any repurchases are determined at the Company’s discretion. The Share Repurchase Program may be suspended, terminated or modified by the Company at any time and for any reason. The Share Repurchase Program does not obligate the Company to repurchase any specific number of shares.

In 2015, we repurchased a total of 2,258,929 shares of our common stock for an aggregate consideration of \$9,388, of which 2,225,437 shares were repurchased under the Share Repurchase Program for an aggregate amount of \$9,228 (including fees and commissions). In 2014, we repurchased a total of 227,974 shares of our common stock for an aggregate consideration of \$762, of which 216,754 shares were repurchased under the Share Repurchase Program for an aggregate amount of \$722 (including fees and commissions).

**Note 5 - Supplemental Balance Sheet Information**

*a. Inventory*

Inventories are stated at the lower of cost or market with cost determined under the first-in, first-out (FIFO) method. The composition of inventories was:

	December 31,	
	2015	2014
Raw materials	\$ 11,602	\$ 15,100
Work in process	1,560	1,489
Finished products	10,652	9,497
Total	<u>\$ 23,814</u>	<u>\$ 26,086</u>

*b. Property, Plant and Equipment*

Major classes of property, plant and equipment consisted of the following:

	December 31,	
	2015	2014
Land	\$ 123	\$ 123
Buildings and leasehold improvements	7,490	7,437
Machinery and equipment	49,609	48,054
Furniture and fixtures	1,974	1,811
Computer hardware and software	4,585	4,452
Construction in progress	745	1,351
	<u>64,526</u>	<u>63,228</u>
Less – Accumulated depreciation	(55,488)	(53,416)
Total	<u>\$ 9,038</u>	<u>\$ 9,812</u>

Estimated costs to complete construction in progress as of December 31, 2015 and 2014 were approximately \$180 and \$586, respectively.

Depreciation expense was \$2,401 and \$2,757 for the years ended December 31, 2015 and 2014, respectively.

c. *Impairment of Goodwill, Intangible Assets and Long-Lived Assets*

We elected to forego the qualitative assessment for our three identified reporting units (Battery & Energy Products business, Communications Systems business, and Able (which is a subset of our Battery & Energy Products business)), and conducted a quantitative assessment. The fair value for our reporting units subjected to this quantitative test could not be determined using readily available quoted Level 1 inputs or Level 2 inputs that were observable in active markets. Therefore, we used an income approach to estimate the fair value of the reporting units, using Level 3 inputs. To estimate the fair value of the reporting units, we used significant estimates and judgments, including an assessment of our future revenue prospects, particularly government/defense opportunities, as well as our estimates of the probabilities of the opportunities being funded, awarded, and awarded to us. Other key estimates and factors used in the valuation model included revenue growth rates and profit margins based on internal forecasts, as well as industry and market based terminal growth rates, inputs to the weighted-average cost of capital used to discount future cash flows, and earnings multiples. As a result of the goodwill impairment tests performed during 2015 and 2014, we determined that an impairment was not required.

Similarly, for our four other indefinite-lived intangible assets (trademarks and trade names), we elected to forego the qualitative assessment and proceeded to perform quantitative assessments. The fair value for our indefinite-lived intangible assets subjected to this quantitative test could not be determined using readily available quoted Level 1 inputs or Level 2 inputs that were observable in active markets. Therefore, we used a royalty relief approach, to estimate the fair value of the indefinite-lived intangible assets, using Level 3 inputs. This method also required us to use significant estimates and judgmental factors. The key estimates and factors used in the valuation model included revenue growth rates, as well as industry and market based terminal growth rates, inputs to the weighted-average cost of capital used to discount future cash flows, and determined royalty rates. As a result of the impairment tests performed during 2015, we determined that an impairment amounting to \$150 was required to reduce the carrying value of one Communications Systems business trademark to its estimated fair value. As a result of the impairment tests performed during 2014, we determined that no impairments were required.

There is a possibility that our goodwill and other intangible assets, particularly in our Communications Systems business, could be impaired should there be a significant change in our internal forecasts and other assumptions we use in our impairment analysis.

During 2015 and 2014, we also evaluated certain fixed assets for impairment utilizing valuation methods that are classified as Level 3 inputs. Based upon the results of this evaluation, no material impairment was indicated.

d. *Goodwill*

The following table summarizes the goodwill activity by segment for the years ended December 31, 2015 and 2014:

	<b>Battery &amp; Energy Products</b>	<b>Communi- cations Systems</b>	<b>Total</b>
Balance – January 1, 2014	\$ 4,926	\$ 11,493	\$ 16,419
Effect of foreign currency translation	(12)	—	(12)
Balance – December 31, 2014	4,914	11,493	16,407
Effect of foreign currency translation	(124)	—	(124)
Balance – December 31, 2015	<u>\$ 4,790</u>	<u>\$ 11,493</u>	<u>\$ 16,283</u>

e. *Other Intangible Assets*

The composition of intangible assets was:

	December 31, 2015		
	Cost	Accumulated Amortization	Net
Trademarks	\$ 3,411	\$ —	\$ 3,411
Patents and technology	4,482	4,217	265
Customer relationships	3,971	3,716	255
Distributor relationships	370	355	15
Total other intangible assets	<u>\$ 12,234</u>	<u>\$ 8,288</u>	<u>\$ 3,946</u>

  

	December 31, 2014		
	Cost	Accumulated Amortization	Net
Trademarks	\$ 3,567	\$ —	\$ 3,567
Patents and technology	4,509	4,114	395
Customer relationships	4,029	3,679	350
Distributor relationships	391	365	26
Total other intangible assets	<u>\$ 12,496</u>	<u>\$ 8,158</u>	<u>\$ 4,338</u>

Amortization of intangible assets was included in the following financial statement captions:

	Year ended December 31,	
	2015	2014
Research and development expense	\$ 130	\$ 176
Selling, general and administrative expense	105	129
Total	<u>\$ 235</u>	<u>\$ 305</u>

Except for the impairment charge recorded against a Communications Systems trademark in 2015, the change in the cost value of total intangible assets is a result of the effect of foreign currency exchange rate fluctuations.

#### Note 6 - Fair Value of Assets and Liabilities

Our financial instruments include cash and cash equivalents, trade receivables, accounts payable and accrued liabilities. For these short-term instruments, we have concluded that the historical carrying value is a reasonable estimate of fair value because of the short period of time between the origination of such instruments and their expected realization.

During 2015 and 2014, there were no transfers of financial assets between Levels 1, 2 or 3 of fair value measurements. There have been no changes in the methodologies used at December 31, 2015 and December 31, 2014.

The table below shows assets measured at fair value on a non-recurring basis. The fair value of goodwill, trademarks and other intangible assets are determined using Level 3 inputs.

	Assets Measured at Fair Value on a Non-recurring Basis				
	Balance, December 31, 2015	Level 1	Level 2	Level 3	Total Gain / (Loss)
Goodwill – Battery & Energy Products Segment	\$ 4,790	\$ —	\$ —	\$ 4,790	\$ —
Goodwill – Communications Systems Segment	11,493	—	—	11,493	—
Trademark – Battery & Energy Products Segment	711	—	—	711	—
Trademarks – Communications Systems Segment	2,700	—	—	2,700	(150)
Total	<u>\$ 19,694</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 19,694</u>	<u>\$ (150)</u>

The quantitative impairment test for goodwill consists of a comparison of the fair value of the reporting unit with the carrying amount of the reporting unit to which it is assigned. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is considered not impaired. If the carrying amount of a reporting unit exceeds its fair value, a second step of the goodwill impairment test is performed to measure the amount of impairment loss, if any. At December 31, 2015, we estimate that the fair value of goodwill exceeds the recorded value by more than 50%.

The impairment test for intangible assets with indefinite lives consists of a comparison of the fair value of the intangible assets with their carrying amounts. If the carrying value of the intangible assets exceeds the fair value, an impairment loss is recognized in an amount equal to that excess. We determine the fair value of the reporting unit for goodwill impairment testing based on a discounted cash flow model. We determine the fair value of our intangibles assets with indefinite lives (trademarks) through the royalty relief income valuation approach.

For our impairment tests of both goodwill and trademarks, we use key assumptions that include estimates of future customer orders and revenues. The use of such estimates involves inherent uncertainties, and future impairments may be warranted if such future orders and revenues do not materialize.

**Note 7 - Operating Leases**

We lease various buildings, machinery, land, automobiles and office equipment. Rental expenses for all operating leases were approximately \$672 and \$775 for the years ended December 31, 2015 and 2014, respectively. Future minimum lease payments under non-cancelable operating leases as of December 31, 2015 are as follows:

2016	2017	2018	2019	2020
\$ 571	\$ 589	\$ 544	\$ 415	\$ 100

**Note 8 - Debt**

*Credit Facilities*

We are party to a Revolving Credit, Guaranty and Security Agreement (the “Credit Agreement”) and related security agreements with PNC Bank, National Association (“PNC”), which provides us a \$20 million secured asset-based revolving credit facility that includes a \$1 million letter of credit subfacility (the “Credit Facility”). The Credit Agreement provides that the Credit Facility may be increased with the PNC’s concurrence to \$35 million prior to the last six months of the term, and expires on May 24, 2017.

On April 30, 2014, the Company and PNC entered into an amendment (the “Amendment”) to the Credit Agreement. The Amendment permits the Company to commence the Share Repurchase Program described in Note 4, provided that (a) the Company is not in default under the Credit Agreement, (b) the Company’s undrawn availability under the Credit Agreement is at least \$6 million both prior to and immediately following any repurchase, (c) the Company’s undrawn availability under the Credit Agreement plus domestic unrestricted cash is at least \$8 million both prior to and immediately following any repurchase, and (d) the Company uses its unrestricted cash for such repurchases and does not request advances against the Credit Agreement for such purposes. On October 28, 2014, the Company and PNC entered into a second amendment to the Credit Agreement which modifies the definition of EBITDA in the Credit Agreement to include non-cash stock- based compensation expense.

On April 29, 2015, the Company and PNC entered into a third amendment to the Credit agreement which permitted the Company to extend the Share Repurchase Program to April 30, 2016. On June 15, 2015, the Company and PNC entered into a fourth amendment to the Credit Agreement which permitted the expansion of the Share Repurchase Program described in Note 4 and the extension of this program to June 2, 2016. Finally, on January 13, 2016, Company and PNC entered into a fifth amendment to the Credit Agreement which permitted the Company’s acquisition of Accutronics Ltd. as described in Note 3 above.

Our available borrowing limit under the Credit Facility fluctuates from time to time based on a borrowing base formula equal to the sum of up to 85% of eligible accounts receivable plus the least of (a) up to 65% of the eligible inventory and eligible foreign in-transit inventory, (b) up to 85% of the appraised net orderly liquidation value of eligible inventory and eligible foreign in-transit inventory, and (c) \$7.5 million, in each case subject to the definitions in the Credit Agreement and reserves required by PNC.

Interest is payable quarterly and will accrue on outstanding indebtedness under the Credit Agreement at the alternate base rate, as defined in the Credit Agreement, plus the applicable margin or at the one, two or three month LIBOR rate plus the applicable margin as selected by us from time to time and listed below.

<u>Quarterly Average Undrawn Borrowing Availability</u>	<u>Applicable Margin for Alternate Base Rate Loans</u>	<u>Applicable Margin for LIBOR Rate Loans</u>
Greater than \$8,000,000	1.00%	2.00%
\$5,000,000 up to \$8,000,000	1.25%	2.25%
Less than \$5,000,000	1.50%	2.50%

We must pay a fee on the Credit Facility’s unused availability of 0.375% per annum and customary letter of credit fees in addition to various collateral monitoring and related fees and expenses.

In addition to customary affirmative and negative covenants, we must maintain a fixed charge coverage ratio as defined in the Credit Agreement of 1.15 to 1.00, tested quarterly for the four-quarters then ended. As of December 31, 2015 we were in compliance with all covenants. The Credit Facility is secured by substantially all our assets.

Any outstanding advances must be repaid upon expiration of the term of the Credit Facility. Payments must be made during the term to the extent outstanding advances exceed the maximum amount then permitted to be drawn as advances under the Credit Facility and from the proceeds of certain transactions. Upon the occurrence of an event of default, the outstanding obligations may be accelerated and PNC will have other customary remedies.

As of December 31, 2015, we had \$-0- outstanding under the Credit Facility, an applicable interest rate of 2.43%, approximately \$8,927 of borrowing capacity in addition to our unrestricted cash on hand of \$14,393, and no outstanding letters of credit related to the Credit Facility.

**Note 9 - Commitments and Contingencies**

a. *Indemnity*

Our organizational documents provide that our directors or officers will be reimbursed for all expenses, to the fullest extent permitted by law arising out of their performance.

b. *Purchase Commitments*

As of December 31, 2015, we have made commitments to purchase approximately \$511 of production machinery and equipment.

c. *China*

Our operating facility in China presents risks including, but not limited to, changes in local regulatory requirements, including changes in labor laws, local wage laws, environmental regulations, taxes and operating licenses, compliance with U.S. regulatory requirements, including the Foreign Corrupt Practices Act, uncertainties as to application and interpretation of local laws and enforcement of contract and intellectual property rights, eminent domain claims, labor disputes, rapid changes in government, economic and political policies, and other various contingencies that are outside of our control. Any such event could depress our earnings and have other material adverse effects on our business, financial condition and results of operations.



d. *Employment Contracts*

We have an employment contract with Michael D. Popielec, our President and Chief Executive Officer, which remains in effect until terminated by either party. This agreement provides for a base salary, as adjusted for increases at the discretion of our Board of Directors, and includes incentive bonuses based upon attainment of specified quantitative and qualitative performance goals. This agreement also provides for severance payments in the event of specified events of termination of employment. In addition, this agreement provides for a lump sum payment in the event of termination of employment in connection with a change in control.

As part of our employment commencement process, employees are required to enter into agreements providing for confidentiality of certain information and the assignment of rights to inventions made by them while employed by us. These agreements also contain certain noncompetition and nonsolicitation provisions effective during the employment term and for varying periods thereafter depending on position and location. There can be no assurance that we will be able to enforce these agreements. All of our employees agree to abide by the terms of a Code of Ethics policy that provides for the confidentiality of certain information received during the course of their employment.

e. *Product Warranties*

We estimate future costs associated with expected product failure rates, material usage and service costs in the development of our warranty obligations. Warranty reserves are based on historical experience of warranty claims and generally will be estimated as a percentage of sales over the warranty period. In the event the actual results of these items differ from the estimates, an adjustment to the warranty obligation would be recorded. Changes in our product warranty liability during the years ended December 31, 2015 and 2014 were as follows:

	2015	2014
Balance, January 1	\$ 376	\$ 513
Provision (reversal) for warranties issued	(90)	122
Settlements made	(94)	(259)
Balance, December 31	<u>\$ 192</u>	<u>\$ 376</u>

f. *Legal Matters –*

We are subject to legal proceedings and claims that arise in the normal course of business. We believe that the final disposition of such matters will not have a material adverse effect on our financial position, results of operations or cash flows.

*Dreamliner Litigation*

In July 2013, an unoccupied Boeing 787 Dreamliner aircraft operated by Ethiopian Airlines was damaged by a fire while parked at London Heathrow Airport. We participated in and provided technical assistance in support of an investigation of this incident conducted by U.K. and U.S. regulatory authorities as well as by the manufacturer of the aircraft, as we are one of many downstream suppliers to that manufacturer. A final report was issued by the Air Accidents Investigative Branch - - UK Civil Aviation regulatory authority, with findings indicating that the fire was primarily caused by circumstances related to the plane's emergency locator transmitter ("ELT") manufactured and installed by another company.

A component of the ELT is a battery pack which incorporates Ultralife's industry-standard lithium manganese dioxide non-rechargeable D-cell. Ultralife has had this cell in production since 2001, with millions of units produced and this cell is widely-used for global defense and commercial applications. This battery product has gone through rigorous safety and qualification testing, including United Nations Transport of Dangerous Goods, Manual of Tests and Criteria, and is authorized for use in aerospace applications under Technical Standard Order C142.

On May 4, 2015, we were notified of a lawsuit in which we were named, along with other suppliers to the aircraft manufacturer, concerning that 2013 fire. The suit was filed by Ethiopian Airlines Enterprise in the Commercial Court, Queen’s Bench Division of the High Court of Justice, London. The suit seeks as damages USD 42 million plus other unspecified amounts, including those for loss of use and diminution in value of the aircraft. We maintain liability and products liability insurance through reputable providers, and in accordance with our corporate practices, immediately advised and referred this matter to our insurers. We are working with those insurers and their counsel to respond to and actively defend against this action, which is ongoing.

At this time, we believe that there is not a reasonable possibility that this incident will result in a material financial exposure to the Company.

*Arista Power Litigation*

Since September 2011, we have been pursuing legal action against Arista Power, Inc. (“Arista”) and our former employee, David Modeen, for, among other things, alleged breach of certain agreements, duties and obligations, including misappropriation of our confidential information and trade secrets, tortious interference, and breach of contract. On January 12, 2016, Arista filed for liquidation under Chapter 7 of the bankruptcy laws of the United States, without accurately identifying our ongoing lawsuit against them. Although we have not withdrawn our lawsuit, nor has it been dismissed, the Company does not intend to submit a Proof of Claim in connection with Arista’s bankruptcy filing, or otherwise continue pursuing its claims against Arista.

**Note 10 - Shareholders' Equity**

*a. Stock-based Compensation Expense*

We recorded non-cash stock compensation expense in each period as follows:

	2015	2014
Stock options	\$ 489	\$ 614
Restricted stock grants:		
Employee	82	29
President and CEO	—	150
Board of Directors compensation – stock grant	—	210
<b>Total</b>	<b>\$ 571</b>	<b>\$ 1,003</b>

These are more fully discussed as follows:

*b. Stock Options*

We have various stock-based employee compensation plans, for which compensation cost is recognized in the financial statements. The cost is measured at the grant date, based on the fair value of the award, and is recognized as an expense over the employee’s requisite service period (generally the vesting period of the equity award).

Our shareholders have approved various equity-based plans that permit the grant of stock options, restricted stock and other equity-based awards. In addition, our shareholders have approved the grant of stock options outside of these plans.

In June 2004, our shareholders adopted the 2004 Long-Term Incentive Plan (“2004 LTIP”) pursuant to which we were authorized to issue up to 750,000 shares of common stock and grant stock options, restricted stock awards, stock appreciation rights and other stock-based awards. Through shareholder approved amendments to the LTIP in 2006, 2008, 2011, and 2013, the total number of shares authorized under the LTIP were increased to 2,900,000.

In June 2014, our shareholders approved the 2014 Long-Term Incentive Plan (“2014 LTIP”) as the successor plan to the 2004 LTIP which expired on June 10, 2014. Under the 2014 LTIP, a total of 1,750,000 shares of Common Stock will be available for grant of awards. However, of the total number of shares of common stock available for awards under the 2014 LTIP, no more than 800,000 shares of Common Stock may be used for awards other than stock options and stock appreciation rights. Grants under the 2014 LTIP may be awarded through June 2, 2024.

Stock options granted under the LTIPs are either Incentive Stock Options (“ISOs”) or Non-Qualified Stock Options (“NQSOs”). Key employees are eligible to receive ISOs and NQSOs; however, directors and consultants are eligible to receive only NQSOs. Most ISOs vest over a three- or five-year period and expire on the sixth or seventh anniversary of the grant date. All NQSOs issued to non-employee directors vest immediately and expire on either the sixth or seventh anniversary of the grant date. Some NQSOs issued to non-employees vest immediately and expire within three years; others have the same vesting characteristics as options given to employees. As of December 31, 2015, there were 1,447,219 stock options outstanding under the 2004 LTIP and 410,750 stock options outstanding under the 2014 LTIP.

On December 30, 2010, pursuant to the terms of his employment agreement, we granted our President and Chief Executive Officer, Michael D. Popielec, options to purchase shares of common stock under the 2004 LTIP as follows: (i) 50,000 shares at \$6.42, vesting in annual increments of 12,500 shares over a four-year period commencing December 30, 2011; (ii) 250,000 shares at \$6.42, vesting in annual increments of 62,500 shares over a four-year period commencing December 30, 2011; (iii) 200,000 shares at \$10.00, with vesting to begin on the date the stock reaches a closing price of \$10.00 per share for 15 trading days within a 30-day trading period, with such vesting in annual increments of 50,000 shares over the four anniversary dates of that date; and (iv) 200,000 shares at \$15.00, with vesting to begin on the date the stock reaches a closing price of \$15.00 per share for 15 trading days within a 30-day trading period, with such vesting in annual increments of 50,000 shares over the four anniversary dates of that date. All such options in items (i) and (ii) shall expire on December 30, 2017. All such options in items (iii) and (iv) shall expire as of the later of December 30, 2017 and five years after the initial vesting commences, but in no event later than December 30, 2020. The options set forth in items (ii), (iii) and (iv) were subject to shareholder approval of an amendment to the 2004 LTIP, which approval was obtained on June 7, 2011.

On January 3, 2011, pursuant to the terms of his employment agreement, we granted our President and Chief Executive Officer, Michael D. Popielec, an option to purchase 50,000 shares of common stock at \$6.58 under the 2004 LTIP. The option vested in annual increments of 12,500 shares over a four-year period commencing December 30, 2011. The option expires on December 30, 2017.

As of December 31, 2015, there was \$440 of total unrecognized compensation costs related to outstanding stock options, which is expected to be recognized over a weighted average period of 1.7 years.

We use the Black-Scholes option-pricing model to estimate fair value of stock-based awards. The following weighted average assumptions were used to value options granted during the years ended December 31, 2015 and 2014:

	<b>Years Ended December 31,</b>	
	<b>2015</b>	<b>2014</b>
Risk-free interest rate	0.72%	1.10%
Volatility factor	48.54%	50.70%
Dividends	0.00%	0.00%
Weighted average expected life (years)	4.15	4.15
Forfeiture rate	13.8%	13.8%

We used a Monte Carlo simulation option-pricing model to estimate the fair value of market performance stock-based awards, of which there were no new awards in the years ended December 31, 2015 or 2014.

We calculate expected volatility for stock options by taking an average of historical volatility over the past five years and a computation of implied volatility. The computation of expected term was determined based on historical experience of similar awards, giving consideration to the contractual terms of the stock-based awards and vesting schedules. The interest rate for periods within the contractual life of the award is based on the U.S. Treasury yield in effect at the time of grant. Forfeiture rates are calculated by dividing unvested shares forfeited by beginning shares outstanding. The pre-vesting forfeiture rate is calculated yearly and is determined using a historical twelve-quarter rolling average of the forfeiture rates.

The following tables summarize data for the stock options issued by us:

**Year Ended December 31, 2015**

	Number of Shares	Weighted Average Exercise Price Per Share	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value
Shares under option – January 1	2,056,122	\$ 6.66		
Options granted	411,250	4.68		
Options exercised	(137,937)	3.90		
Options forfeited or expired	(71,466)	11.86		
Shares under option – December 31	<u>2,257,969</u>	<u>\$ 6.30</u>	<u>3.57</u>	<u>\$ 3,094</u>
Vested and expected to vest - December 31	<u>2,093,294</u>	<u>\$ 6.45</u>	<u>3.39</u>	<u>\$ 2,731</u>
Options exercisable – December 31	<u>1,255,736</u>	<u>\$ 5.22</u>	<u>2.44</u>	<u>\$ 1,786</u>

**Year Ended December 31, 2014**

	Number of Shares	Weighted Average Exercise Price Per Share
Shares under option – January 1	2,131,622	\$ 6.99
Options granted	252,500	3.94
Options exercised	(3,067)	3.67
Options forfeited or expired	(324,933)	6.77
Shares under option – December 31	<u>2,056,122</u>	<u>\$ 6.66</u>
Options exercisable – December 31	<u>1,296,619</u>	<u>\$ 5.63</u>

The following table represents additional information about stock options outstanding at December 31, 2015:

Range of Exercise Prices	Option outstanding			Options exercisable	
	Number of Outstanding Options – December 31, 2015	Weighted-Average Remaining Contractual Life	Weighted- Average Exercise Price	Number of Options Exercisable at December 31, 2015	Weighted- Average Exercise Price
\$3.22-\$3.99	817,064	4.64	\$ 3.78	348,581	\$ 3.76
\$4.00-\$4.99	427,500	2.79	\$ 4.47	393,750	4.44
\$5.00-\$9.99	581,833	2.84	\$ 6.60	481,833	6.45
\$10.00-\$15.00	431,572	3.30	\$ 12.48	31,572	12.18
\$3.22-\$15.00	<u>2,257,969</u>	<u>3.57</u>	<u>\$ 6.30</u>	<u>1,255,736</u>	<u>\$ 5.22</u>

The weighted average fair value of options granted during the years ended December 31, 2015 and 2014 was \$2.32 and \$1.60, respectively. The total intrinsic value of options (which is the amount by which the stock price exceeded the exercise price of the options on the date of exercise) exercised during the years ended December 31, 2015 and 2014 was \$364 and \$3, respectively.

Cash flows from excess tax benefits are classified as a part of cash flows from financing activities. Excess tax benefits are realized tax benefits from tax deductions for exercised options in excess of the deferred tax asset attributable to stock compensation costs for such options. We recorded excess tax benefits totaling \$287 in 2015, and \$0 in 2014. Cash received from option exercises under our stock-based compensation plans for the years ended December 31, 2015 and 2014 was \$538 and \$11, respectively.

#### c. Restricted Stock Awards

On January 29, 2013, we granted 120,000 contingent restricted stock units to our President and Chief Executive Officer, Michael D. Popielec, subject to shareholder approval, which was obtained on June 4, 2013. These restricted stock units vest as follows: (i) 30,000 shares of our common stock will vest on the later of January 1, 2014 or the date when our common stock first reaches a closing price of \$4.00 per share for 15 trading days in a 30 trading day period; (ii) 30,000 shares of our common stock will vest on the later of January 1, 2014 or the date when our common stock first reaches a closing price of \$5.00 per share for 15 trading days in a 30 trading day period; (iii) 30,000 shares of our common stock will vest on the later of January 1, 2015 or the date when our common stock first reaches a closing price of \$4.00 per share for 15 trading days in a 30 trading day period; and (iv) 30,000 shares of our common stock will vest on the later of January 1, 2015 or the date when our common stock first reaches a closing price of \$5.00 per share for 15 trading days in a 30 trading day period.

The restricted stock units described in (i) and (iii) had achieved their closing price condition prior to shareholder approval and were valued at the closing price on the date of grant. The restricted stock units described in (ii) and (iv) had not yet achieved their closing price conditions and were valued utilizing a Monte Carlo simulation to determine fair value and the derived service period. The weighted average assumptions utilized in this simulation included the risk-free interest rate of 0.21%, volatility of 59.08% and no dividend payouts. The weighted average fair value per share was estimated at \$3.62 for an aggregate value of \$434. Of this amount, \$150 was recognized in selling, general and administrative expenses in the years ended December 31, 2014. The restricted stock units described in (ii) and (iv) both vested during 2015.

During 2014, we awarded 49,200 restricted stock units under the 2014 LTIP to certain key employees. These units vest over three years and we estimated their weighted average grant date fair value to be \$3.24 per share. \$82 and \$29 of expense was recorded in 2015 and 2014, respectively, relating to these units. At December 31, 2015, there was \$49 of unrecognized compensation expense related to restricted stock grants.

#### d. Reserved Shares

We have reserved 3,596,719 shares of common stock under the various stock option plans, warrants and restricted stock awards as of December 31, 2015.

### Note 11 - Income Taxes

Our income tax provision consists of:

	Years Ended December 31,	
	2015	2014
Current:		
Federal	\$ 4	\$ —
State	15	12
Foreign	111	65
	<u>130</u>	<u>77</u>
Deferred:		
Federal	169	220
State	—	—
Foreign	11	(29)
	<u>180</u>	<u>191</u>
Total income tax provision	<u>\$ 310</u>	<u>\$ 268</u>

The income tax provision (benefit) related to discontinued operations was immaterial in 2014.

The deferred tax provision in both 2015 and 2014 is principally a result of the increase in the net deferred tax liability related to deferred tax liabilities generated from goodwill and certain intangible assets that cannot be predicted to reverse for book purposes during our loss carryforward periods. In 2015, the deferred provision was reduced by a deferred tax benefit amounting to \$51 relating to our \$150 impairment of a trademark.

Deferred income taxes reflect the net tax effect of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amount used for income tax purposes. Significant components of our deferred tax liabilities and assets are as follows:

	Years Ended December 31,	
	2015	2014
<b>Deferred tax liabilities:</b>		
Property, plant and equipment	\$ —	\$ —
Intangible assets	4,631	4,462
<b>Total deferred tax liabilities</b>	<b>4,631</b>	<b>4,462</b>
<b>Deferred tax assets:</b>		
Property, plant and equipment	288	88
Net operating loss carryforwards	27,283	20,164
Tax credit carryforwards	1,596	1,455
Intangible assets	3,391	3,841
Accrued expenses, reserves and other	2,127	2,509
<b>Total deferred tax assets</b>	<b>34,685</b>	<b>28,057</b>
Valuation allowance for deferred tax assets	(34,593)	(27,951)
<b>Net deferred tax assets</b>	<b>92</b>	<b>106</b>
<b>Net deferred tax liabilities</b>	<b>\$ 4,539</b>	<b>\$ 4,356</b>

Net deferred tax liabilities is comprised of the following balance sheet amounts:

	Years Ended December 31,	
	2015	2014
Current deferred tax assets	\$ 92	\$ 106
Non-current deferred tax liabilities	(4,631)	(4,462)
	<b>\$ (4,539)</b>	<b>\$ (4,356)</b>

The valuation allowance for deferred tax assets increased \$6,642 and \$659 in the years ended December 31, 2015 and 2014, respectively. The 2015 increase in the valuation allowance included an increase of \$7,296 relating to the release of our unrecognized tax benefit during 2015 (see below). Excluding the effect of the release of the unrecognized tax benefit during 2015, the valuation allowance would have decreased by \$654.

In 2015 and 2014, in the U.S. and the U.K., we continue to report a valuation allowance for our deferred tax assets that cannot be offset by reversing temporary differences. We continue to conclude that, based on historical factors, it is more likely than not that we will not fully utilize our U.S. and U.K. NOLs that have accumulated over time. The recognition of a valuation allowance on our deferred tax assets results from our evaluation of all available evidence, both positive and negative. The assessment of the realizability of the NOLs is based on a number of factors including, our history of net operating losses, the volatility of our earnings, our historical operating volatility, our historical inability to accurately forecast earnings for future periods and the continued uncertainty of the general business climate as of the end of 2015. We believe that these historical factors represent negative evidence sufficient to conclude that we should record a full valuation allowance against our deferred tax assets. In both 2015 and 2014, we have not recorded a valuation allowance against our foreign deferred tax assets as we believe that it is more likely than not that they will be realized. We continually assess the carrying value of this asset based on relevant accounting standards.

As of December 31, 2015, we have foreign and domestic NOLs and credit carryforwards totaling approximately \$86,800 and \$1,600, respectively, available to reduce future taxable income. Included in our NOL carryforward are foreign loss carryforwards of approximately \$12,400 which can be carried forward indefinitely. The domestic NOL carryforward of \$74,400 expires beginning in 2019, through 2034. The domestic NOL carryforward includes approximately \$3,000 for which a benefit will be recorded in capital in excess of par value when realized.

For financial reporting purposes, income (loss) from continuing operations before income taxes is as follows:

	Years Ended December 31,	
	2015	2014
United States	\$ 2,582	\$ (1,808)
Foreign	568	6
	\$ 3,150	\$ (1,802)

There are no undistributed earnings of our foreign subsidiaries, at December 31, 2015 or 2014.

The provision for income taxes differs from the amount of income tax determined by applying the applicable U.S. statutory federal income tax rate to income (loss) from continuing operations before income taxes as follows:

	Years Ended December 31,	
	2015	2014
Statutory income tax rate	34.0%	34.0%
(Increase) decrease in tax provision resulting from:		
Equity compensation	2.2	(12.9)
Income tax credits	(4.5)	4.2
Foreign tax rates	(2.2)	(1.9)
Release of unrecognized tax benefits	(231.6)	—
Valuation allowance	210.9	(36.6)
Other	1.0	(1.7)
Effective income tax rate	9.8%	(14.9%)

*Accounting for Uncertainty in Income Taxes*

Our unrecognized tax benefits related to uncertain tax positions at December 31, 2014 related to Federal and various state jurisdictions. The recorded release of uncertain tax positions in 2015 relating to the conclusion of a federal tax examination, resulting in a \$21.4 million increase in the amount of our reported domestic NOL carryforward. The following table summarizes the activity related to our unrecognized tax benefits:

	Years Ended December 31,	
	2015	2014
Balance – beginning of year	\$ 7,296	\$ 7,296
Increases related to current year tax positions	—	—
Increases related to prior year tax positions	—	—
Decreases related to prior year tax positions	—	—
Expiration of statute of limitations for assessment of taxes	—	—
Settlements of examinations	(7,296)	—
Balance – end of year	\$ —	\$ 7,296

The total unrecognized tax benefit balances at December 31, 2014 was comprised of tax benefits that, if recognized, would result in a deferred tax asset and a corresponding increase in our valuation allowance. As a result, because the benefit would be offset by an increase in the valuation allowance, there would be no net effect on our effective tax rate or income tax provision. We recorded the release of this unrecognized tax benefit amount during 2015 upon the conclusion of a federal tax examination, resulting in a \$21.4 million increase in the amount of our reported domestic NOL carryforward.

We are not required to accrue interest and penalties as the unrecognized tax benefits have been recorded as a decrease in our NOL. Interest and penalties would begin to accrue in the period in which the NOLs related to the uncertain tax positions are utilized. We do not expect our unrecognized tax benefits to change significantly over the next twelve months.

As a result of our operations, we file income tax returns in various jurisdictions including U.S. federal, U.S. state and foreign jurisdictions. We are routinely subject to examination by taxing authorities in these various jurisdictions. Our U.S. tax matters for the years 2001 through 2015 remain subject to examination by the Internal Revenue Service (“IRS”) due to our NOL carryforwards. Our U.S. tax matters for the years 2001 through 2015 remain subject to examination by various state and local tax jurisdictions due to our NOL carryforwards. Our tax matters for the years 2009 through 2015 remain subject to examination by the respective foreign tax jurisdiction authorities.

**Note 12 - 401(k) Retirement Benefit Plan**

We maintain a defined contribution 401(k) plan covering substantially all employees. Employees can contribute a portion of their salary or wages as prescribed under Section 401(k) of the Internal Revenue Code and, subject to certain limitations, we may, at the discretion of our Board of Directors, authorize an employer contribution based on a portion of the employees' contributions. Since January 2010, we have matched 50% on the first 4% contributed by an employee, or a maximum of 2% of the employee's income. For 2015 and 2014, we contributed \$201 and \$164, respectively, to the 401(k) plan.

**Note 13 - Business Segment Information**

We report our results in two operating segments: Battery & Energy Products and Communications Systems. The Battery & Energy Products segment includes: lithium 9-volt, cylindrical and various other non-rechargeable batteries, in addition to rechargeable batteries, uninterruptable power supplies, charging systems and accessories. The Communications Systems segment includes: RF amplifiers, power supplies, cable and connector assemblies, amplified speakers, equipment mounts, case equipment, integrated communication system kits and communications and electronics systems design. We believe that reporting performance at the gross profit level is the best indicator of segment performance. As such we report segment performance at the gross profit level and operating expenses as Corporate charges.

2015:

	<b>Battery &amp; Energy Products</b>	<b>Communi- cations Systems</b>	<b>Discontinued Operations</b>	<b>Corporate</b>	<b>Total</b>
Revenue	\$ 65,272	\$ 11,155	\$ —	\$ —	\$ 76,427
Segment contribution	18,698	4,618	—	(19,986)	3,330
Interest expense, net				(245)	(245)
Miscellaneous				65	65
Income tax provision				(310)	(310)
Noncontrolling interest				29	29
Net income attributable to Ultralife					\$ 2,869
Total assets	\$ 35,295	\$ 28,849		\$ 17,378	\$ 81,522
Capital expenditures	355	973		562	1,890
Goodwill	4,790	11,493			16,283
Depreciation and amortization	1,625	98		984	2,707
Intangible asset impairment		150			150
Stock-based compensation	46	3		522	571



## 2014:

	Battery & Energy Products	Communications Systems	Discontinued Operations	Corporate	Total
Revenue	\$ 56,772	\$ 9,722	\$ —	\$ —	\$ 66,494
Segment contribution	15,516	3,834	—	(20,793)	(1,443)
Interest expense, net				(205)	(205)
Miscellaneous				(154)	(154)
Income tax provision				(268)	(268)
Income (loss) from discontinued operations			(61)		(61)
Noncontrolling interest				15	15
Net loss attributable to Ultralife					\$ (2,116)
Total assets	\$ 38,415	\$ 29,056		\$ 20,171	\$ 87,642
Capital expenditures	1,400	1,066		206	2,672
Goodwill	4,914	11,493			16,407
Depreciation and amortization	2,089	89		955	3,133
Stock-based compensation	28	4		971	1,003

U.S. and Non-U.S. Revenue Information (in millions)<sup>1</sup>:

2015:	Total Revenue	United States	Non-United States
Battery & Energy Products	\$ 65.3	\$ 37.1	\$ 28.2
Communications Systems	11.1	9.6	1.5
Total	\$ 76.4	\$ 46.7	\$ 29.7
		61%	39%

2014:	Total Revenue	United States	Non-United States
Battery & Energy Products	\$ 56.8	\$ 30.7	\$ 26.1
Communications Systems	9.7	8.7	1.0
Total	\$ 66.5	\$ 39.4	\$ 27.1
		59%	41%

<sup>1</sup> Sales classified to U.S. include shipments to U.S.-based prime contractors which in some cases may serve non-U.S. projects

Long-lived assets (including goodwill and intangible assets) held outside the U.S., principally in China, were \$4,748 and \$5,153 at December 31, 2015 and 2014, respectively.

Commercial and Government/Defense Revenue Information:

2015:	Total Revenue	Commercial	Government/Defense
Battery & Energy Products	\$ 65.3	\$ 33.7	\$ 31.6
Communications Systems	11.1	—	11.1
Total	\$ 76.4	\$ 33.7	\$ 42.7
		44%	56%

2014:	Total Revenue	Commercial	Government/ Defense
Battery & Energy Products	\$ 56.8	\$ 30.1	\$ 26.7
Communications Systems	9.7	—	9.7
Total	\$ 66.5	\$ 30.1	\$ 36.4
		45%	55%

#### Note 14 - Fire at Manufacturing Facility

In June 2011, we experienced a fire that damaged certain inventory and machinery and equipment at our facility in China. The fire occurred after business hours and was fully extinguished quickly with no injuries, and the plant was back in full operation shortly thereafter with no significant disruption in supply or service to customers. We maintain adequate insurance coverage for this operation.

The total amount of the loss pertaining to assets and the related expenses was approximately \$1,589, including damaged inventory, business interruption and lost profits. Previous payments received against the loss claim total approximately \$1,286, and no gain or loss has been recognized upon receipt of these partial payments. As of December 31, 2015, we reflect a receivable from the insurance company relating to this claim of \$177, which is net of our deductible of approximately \$125, and represents additional proceeds we expect to receive when the insurer finalizes the claim.

#### ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

#### ITEM 9A. CONTROLS AND PROCEDURES

**Evaluation Of Disclosure Controls And Procedures** – Our president and chief executive officer (principal executive officer) and our chief financial officer and treasurer (principal financial officer) have evaluated our disclosure controls and procedures (as defined in Securities Exchange Act Rule 13a-15(e)) as of the end of the period covered by this annual report. Based on this evaluation, our president and chief executive officer and chief financial officer and treasurer concluded that our disclosure controls and procedures were effective as of such date.

**Changes In Internal Controls Over Financial Reporting** – There has been no change in our internal control over financial reporting (as defined in Securities Exchange Act Rule 13a-15(f)) that occurred during the fourth quarter of the fiscal year covered by this annual report that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**Management’s Report on Internal Control over Financial Reporting** – Our management team is responsible for establishing and maintaining adequate internal control over our financial reporting. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Because of the inherent limitations of internal control systems, our internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with policies or procedures may deteriorate.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2015. In making this assessment, we used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”) in Internal Control-Integrated Framework. Based on our assessment, we concluded that, as of December 31, 2015, our internal control over financial reporting was effective based on those criteria.

**ITEM 9B. OTHER INFORMATION**

None.

**PART III**

The information required by Part III, other than as set forth in Item 12, and each of the following items is omitted from this report and will be presented in our definitive proxy statement ("Proxy Statement") to be filed pursuant to Regulation 14A, not later than 120 days after the end of the fiscal year covered by this report, in connection with our 2016 Annual Meeting of Shareholders, which information included therein is incorporated herein by reference.

**ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE**

The sections entitled "Election of Directors", "Executive Officers", "Section 16(a) Beneficial Ownership Reporting Compliance" and "Corporate Governance" in the Proxy Statement are incorporated herein by reference.

**ITEM 11. EXECUTIVE COMPENSATION**

The sections entitled "Executive Compensation", "Directors Compensation", "Employment Arrangements" and "Compensation and Management Committee" in the Proxy Statement are incorporated herein by reference.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

The section entitled "Security Ownership of Certain Beneficial Owners" and "Security Ownership of Management" in the Proxy Statement is incorporated herein by reference.

**Equity Compensation Plan Information**

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders	2,257,969	\$ 6.30	1,338,750
Equity compensation plans not approved by security holders	—	—	—
<b>Total</b>	<b>2,257,969</b>	<b>\$ 6.30</b>	<b>1,338,750</b>

See Note 10 in Notes to Consolidated Financial Statements for additional information.

**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

The section entitled "Corporate Governance - General" in the Proxy Statement is incorporated herein by reference.

**ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

The section entitled "Proposal to Ratify the Selection of Independent Registered Accounting Firm - Principal Accountant Fees and Services" in the Proxy Statement is incorporated herein by reference.

**PART IV**

**ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES**

(a) Documents filed as part of this report:

1. Financial Statements

The financial statements and schedules required by this Item 15 are set forth in Part II, Item 8 of this report.

(b) Exhibits. The following exhibits are filed as a part of this report:

Exhibit Index	Description of Document	Incorporated By Reference from:
2.1	Stock Purchase Agreement by and between BCF Solutions, Inc. and Ultralife Corporation	Exhibit 2.1 of the Form 10-Q for the quarter ended September 30, 2012, filed November 8, 2012
2.2	Stock Purchase Agreement relating to Accutronics Limited by and between Robert Andrew Phillips and Others and Ultralife Corporation	Filed herewith
3.1	Restated Certificate of Incorporation	Exhibit 3.1 of the Form 10-K for the year ended December 31, 2008, filed March 13, 2009
3.2	Amended and Restated By-laws	Exhibit 3.2 of the Form 8-K filed December 9, 2011
4.1	Specimen Stock Certificate	Exhibit 4.1 of the Form 10-K for the year ended December 31, 2008, filed March 13, 2009
10.1*	Technology Transfer Agreement relating to Lithium Batteries	Exhibit 10.19 of our Registration Statement on Form S-1 filed on October 7, 1994, File No. 33-84888 (the "1994 Registration Statement")
10.2*	Technology Transfer Agreement relating to Lithium Batteries	Exhibit 10.20 of the 1994 Registration Statement
10.3*	Amendment to the Agreement relating to rechargeable batteries	Exhibit 10.24 of our Form 10-K for the fiscal year ended June 30, 1996 (this Exhibit may be found in SEC File No. 0-20852)
10.4†	Ultralife Corporation 2014 Long-Term Incentive Plan	Appendix A to our Definitive Proxy Statement filed on April 21, 2014
10.5†	Ultralife Batteries, Inc. Amended and Restated 2004 Long-Term Incentive Plan	Exhibit 99.2 of our Registration Statement on Form S-8 filed on July 26, 2004, File No. 333-117662
10.6†	Amendment No. 1 to Ultralife Batteries, Inc. Amended and Restated 2004 Long-Term Incentive Plan	Exhibit 99.3 of our Registration Statement on Form S-8 filed August 18, 2006, File No. 333-136737

10.7†	Amendment No. 2 to Ultralife Batteries, Inc. Amended and Restated 2004 Long-Term Incentive Plan	Exhibit 99.4 of our Registration Statement on Form S-8 filed November 13, 2008, File No. 333-155349
10.8†	Amendment No. 3 to Ultralife Batteries, Inc. Amended and Restated 2004 Long-Term Incentive Plan	Exhibit 99.5 of our Registration Statement on Form S-8 filed November 13, 2008, File No. 333-155349
10.9†	Employment Agreement between the Registrant and Peter F. Comerford	Exhibit 10.30 of the Form 10-K for the year ended December 31, 2009, filed March 16, 2010
10.10†	Employment Agreement between the Registrant and Michael D. Popielec dated December 6, 2010	Exhibit 10.40 of the Form 10-K for the year ended December 31, 2010, filed March 15, 2011
10.11†	Revised definition of “Change in Control” for Ultralife Corporation Amended and Restated 2004 Long-Term Incentive Plan	Exhibit 10.1 of the Form 8-K filed on May 26, 2011
10.12	Settlement Agreement between the Registrant and the United States of America dated June 1, 2011	Exhibit 10.1 of the Form 8-K filed on June 2, 2011
10.13†	Amendment No. 4 to Ultralife Corporation Amended and Restated 2004 Long-Term Incentive Plan	Exhibit 4.5 of the Registration Statement on Form S-8 filed on January 30, 2012, File No. 333-179235
10.14†	Amendment No. 5 to Ultralife Corporation Amended and Restated 2004 Long-Term Incentive Plan	Exhibit 10.1 of the Form 8-K filed on May 26, 2011
10.15	Revolving Credit, Guaranty, and Security Agreement between Ultralife Corporation and PNC Bank, National Association, dated May 24, 2013	Exhibit 10.1 of the Form 10-Q for the quarter ended June 30, 2013, filed August 9, 2013
10.16†	Retirement and Consulting Agreement, Release and Waiver of All Claims, between Ultralife Corporation and Peter F. Comerford, dated May 28, 2013	Exhibit 10.1 of the Form 10-Q for the quarter ended June 30, 2013, filed August 9, 2013
10.17†	Restricted Stock Unit Agreement between Ultralife Corporation and Michael D. Popielec. Dated June 4, 2013	Exhibit 10.1 of the Form 10-Q for the quarter ended June 30, 2013, filed August 9, 2013
10.18†	Amended No. 6. to Ultralife Corporation Amended and Restated 2004 Long-Term Incentive Plan	Appendix A of Form DEF 14A filed on April 22, 2013
10.19	Amendment No. 1, dated April 30, 2014, to the Revolving Credit, Guaranty, and Security Agreement between Ultralife Corporation and PNC Bank, National Association, dated May 24, 2013	Exhibit 10.1 of the Form 10-Q for the quarter ended March 30, 2014, filed May 9, 2014
10.20	Amendment No. 2, dated October 28, 2014, to the Revolving Credit, Guaranty, and Security Agreement between Ultralife Corporation and PNC Bank, National Association, dated May 24, 2013	Exhibit 10.1 of the Form 10-Q for the quarter ended September 28, 2014, filed November 3, 2014
10.21	Amendment No. 3, dated April 30, 2015, to the Revolving Credit, Guaranty, and Security Agreement between Ultralife Corporation and PNC Bank, National Association, dated May 24, 2013	Exhibit 10.1 of the Form 8-K filed on April 30, 2015

10.22	Amendment No. 4, dated June 5, 2015, to the Revolving Credit, Guaranty, and Security Agreement between Ultralife Corporation and PNC Bank, National Association, dated May 24, 2013	Exhibit 10.1 of the Form 8-K filed on June 5, 2015
10.23	Amendment No. 5, dated January 13, 2016, to the Revolving Credit, Guaranty, and Security Agreement between Ultralife Corporation and PNC Bank, National Association, dated May 24, 2013	Exhibit 10.1 of the Form 8-K filed on January 20, 2016
21	Subsidiaries	Filed herewith
23.1	Consent of Bonadio & Co.,LLP	Filed herewith
31.1	CEO 302 Certifications	Filed herewith
31.2	CFO 302 Certifications	Filed herewith
32	906 Certifications	Filed herewith
100.INS	XBRL Instance Document	Filed herewith
100.SCH	XBRL Taxonomy Extension Schema Document	Filed herewith
100.CAL	XBRL Taxonomy Calculation Linkbase Document	Filed herewith
100.LAB	XBRL Taxonomy Label Linkbase Document	Filed herewith
100.PRE	XBRL Taxonomy Presentation Linkbase Document	Filed herewith
100.DEF	XBRL Taxonomy Definition Document	Filed herewith

\* Confidential treatment has been granted as to certain portions of this exhibit.

† Management contract or compensatory plan or arrangement.

**SIGNATURES**

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

**ULTRALIFE CORPORATION**

Date: March 2, 2016

/s/ Michael D. Popielec  
Michael D. Popielec  
President, Chief Executive Officer and Director

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

Date: March 2, 2016

/s/ Michael D. Popielec  
Michael D. Popielec  
President, Chief Executive Officer and Director  
(Principal Executive Officer)

Date: March 2, 2016

/s/ Philip A. Fain  
Philip A. Fain  
Chief Financial Officer and Treasurer  
(Principal Financial Officer and Principal  
Accounting Officer)

Date: March 2, 2016

/s/ Steven M. Anderson  
Steven M. Anderson (Director)

Date: March 2, 2016

/s/ Thomas L. Saeli  
Thomas L. Saeli (Director)

Date: March 2, 2016

/s/ Robert W. Shaw II  
Robert W. Shaw II (Director)

Date: March 2, 2016

/s/ Ranjit C. Singh  
Ranjit C. Singh (Director)

Date: March 2, 2016

/s/ Bradford T. Whitmore  
Bradford T. Whitmore (Director)

**Index to Exhibits**

2.2	Stock Purchase Agreement relating to Accutronics Limited by and between Robert Andrew Phillips and Others and Ultralife Corporation
21	Subsidiaries
23.1	Consent of Bonadio & Co., LLP
31.1	Certification of Chief Executive Officer Pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of Chief Financial Officer Pursuant to Rule 13a-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Calculation Linkbase Document
101.LAB	XBRL Taxonomy Label Linkbase Document
101.PRE	XBRL Taxonomy Presentation Linkbase Document
101.DEF	XBRL Taxonomy Definition Document



## SUBSIDIARIES

We have a 100% ownership interest in Ultralife Batteries (UK) Ltd., incorporated in the United Kingdom.

We have a 100% ownership interest in ABLE New Energy Co., Limited, incorporated in Hong Kong, which has a 100% ownership interest in ABLE New Energy Co., Ltd, incorporated in the People's Republic of China.

We have a 100% ownership interest in Ultralife Energy Services Corporation, incorporated in Florida.

We have a 51% ownership interest in Ultralife Batteries India Private Limited, incorporated in India.

Through our ownership interest in Ultralife UK Ltd, we have a 100% controlling interest in Accutronics, Ltd., also incorporated in the United Kingdom

DATED 13 JANUARY, 2016

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(1) ROBERT ANDREW PHILLIPS AND OTHERS

(2) ULTRALIFE UK LIMITED

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**SHARE PURCHASE AGREEMENT**

relating to

**ACCUTRONICS LIMITED**

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DATE 13 January , 2016

## PARTIES

- (1) **THE PERSONS** whose names and addresses are set out in schedule 1 (the **Sellers**); and
- (2) **ULTRALIFE UK LIMITED**, a company incorporated and registered in England and Wales (company number 9907168), whose registered office is at One Eleven, Edmund Street, Birmingham B3 2HJ (the **Buyer**).

## IT IS AGREED

### 1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following definitions will apply:

#### **Accounting Practice**

the practice of preparing accounts in compliance with all applicable laws and accounting conventions, principles and practices generally accepted in the United Kingdom as at the date of this Agreement required to be used in the preparation of accounts which are intended to show a true and fair view as required by the Act but restricting the accounting treatment to United Kingdom accounting standards as specified in Financial Reporting Standards, Statements of Standard Accounting Practice and Abstracts of Recommended Practice issued by the Urgent Issues Task Force;

#### **Accounts**

the audited financial statements of the Company for the period ended on the Accounts Date, comprising the audited balance sheet and audited profit and loss account together with the notes and cashflow statement relating to them and the directors' and auditors' reports on them;

#### **Accounts Date**

31 August 2015;

#### **Accounts Treatment**

the accounting policies, principles, practices, procedures, judgments, categorisations, estimations and techniques used by the Company in the preparation of the Accounts;

#### **Act**

the Companies Act 2006;

#### **Agreed Form**

any document in a form agreed between the Parties and, for the purpose of identification only, signed or initialled by or on behalf of each of them;

#### **Agreement**

the Share Purchase Agreement related to Accutronics Limited between the Parties dated as of the Effective Date

#### **Auditors**

Dains LLP of 15 Colmore Row, Birmingham B3 2BH;

#### **Business Day**

any day (other than a Saturday, Sunday or public holiday) during which banks in London are open for normal business;

#### **Buyer's Accountants**

RSM, St. Phillip's Point, Temple Row, Birmingham, West Midlands B2 5AF;

#### **Buyer's Solicitors**

Gateley Plc of One Eleven, Edmund Street, Birmingham B3 2HJ;

#### **Cash**

the amount in pounds sterling which is the aggregate of the following:

- (a) to the extent only that any of the same are immediately available for withdrawal or otherwise immediately available to the Company, all deposits of the Company with any bank as at close of business on the Completion Accounts Date but excluding any and all cash held in bank accounts located otherwise than in the United Kingdom;
- (b) to the extent only that any of the same are immediately available for withdrawal or otherwise immediately available to the Company, cleared cash balances, liquid funds and other equivalents of the Company with any bank or financial institution as at close of business on the Completion Accounts Date but excluding any and all cash held in bank accounts located otherwise than in the United Kingdom;
- (c) cash in transit at close of business on the Completion Accounts Date receivable by the Company and cheques and other lodgements received or paid into any bank account of the Company on or before close of business on the Completion Accounts Date and, in each case, which clear after close of business on the Completion Accounts Date; and
- (d) petty cash/cash in hand of the Company as at close of business on the Completion Accounts Date;

less:

- (e) cash in transit as at close of business on the Completion Accounts Date paid out by the Company and cheques issued on or before the Completion Accounts Date by the Company which are to be cleared through the bank accounts of the Company after close of business on the Completion Accounts Date,

in each case as recorded in the cash book of the Company as shall be shown in the Completion Accounts and, for the avoidance of doubt:

- (i) any item falling within more than one of paragraphs (a) to (d) of this definition shall only be included once in the calculation of **Cash**; and
- (ii) **Cash** shall exclude any item that is to be included in the calculation of Working Capital in accordance with schedule 9;

**Claim**

any one or more claims made by the Buyer for breach of a General Warranty (save for the Warranties at paragraph 38 of schedule 4) or a Property Warranty;

**Company**

Accutronics Limited further details of which are set out in schedule 2;

**Company Intellectual Property**

all Intellectual Property which is used in the conduct of the Company's business at the date of this Agreement, including those items set out in schedule 8;

**Completion**

completion of the sale and purchase of the Shares in accordance with this Agreement;

**Completion Accounts**

the accounts stating the amount of the Working Capital and the Net Indebtedness prepared in accordance with schedule 9;

**Completion Accounts Date**

31 December 2015;

**Completion Date**

the date on which Completion occurs pursuant to clause 3;

**Computer Equipment**

all computer hardware owned by the Company and/or used in the Company's business including all disks, disk drives, display screens, keyboards, printers, microprocessors (whether embedded in a computer or any other piece of equipment), associated and peripheral equipment and firmware and any other items that connect with any or all of them, together with all relevant technical documentation;

**Computer Software**

all computer software owned by the Company and/or used in the Company's business, including all executable versions of computer programs in both source and object code form, all operating systems software comprised in the Computer Equipment and all application software and all other software owned and/or used by the Company or which by virtue of the Company's interest in the Computer Equipment, or in software owned and/or used by the Company, the Company is entitled to have or use or is capable of having or using;

**Computer Systems**

the Computer Software and the Computer Equipment;

**Confidential Information**

all or any information of a secret or proprietary or confidential nature (however stored) and not publicly known which is owned by the Company or which is used in or otherwise relates to the business, customers or financial or other affairs of the Company, including information relating to:

- (a) the business methods, technical processes, corporate plans, management systems, finances, new business opportunities or development projects of the Company;
- (b) the marketing or sales of any past or present or future products, goods or services of the Company including customer and supplier names and lists and other details of customers, suppliers, sales targets, sales statistics, market share statistics, prices, market research reports and surveys and advertising and other promotional materials;
- (c) future projects, business development or planning, commercial relationships and negotiations;
- (d) any trade secrets or other information relating to the provision of any product or service of the Company;
- (e) the Company Intellectual Property; or
- (f) lists of employees and details of remuneration and benefits paid to those employees;

**Consideration**

the aggregate consideration for the Shares to be paid or satisfied in accordance with clause 3;

**Critical Person**

any person who is or was an employee, agent, director, consultant or independent contractor employed, appointed or engaged by the Company at any time within the Relevant Period who by reason of such employment, appointment or engagement and in particular his/her seniority and expertise or knowledge of trade secrets or Confidential Information or knowledge of, or influence over the clients, customers or suppliers of the Company is likely to be able to assist or benefit a business in or proposing to be in competition with the Company;

**CTA 2010**

the Corporation Tax Act 2010;

**Customer**

any person who is or was at any time during the Relevant Period a client or customer of the Company for the sale or supply of Products or Services;

**Data Protection Legislation**

any and all data protection and privacy legislation in force from time to time in those parts of the world in which the Company operates and/or processes personal data (either directly or via a third party) including the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003;

**Disclosed**

fully, fairly and accurately disclosed in the Disclosure Letter (and not elsewhere) in such manner and with sufficient detail and clarity to enable the Buyer to assess the scope, nature and impact of the matter disclosed;

**Disclosure Documents**

the two identical bundles of documents (as listed in the schedule to the Disclosure Letter) in the Agreed Form;

**Disclosure Letter**

the letter in the Agreed Form with the same date as this Agreement from the Sellers to the Buyer relating to the Warranties;

**Distance Selling Legislation**

any and all distance selling legislation in force from time to time in those parts of the world in which the Company operates including the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013;

**Draft Completion Accounts**

a draft of the Completion Accounts prepared in accordance with schedule 9;

**E-Commerce Legislation**

any and all e-commerce legislation in force from time to time in those parts of the world in which the Company operates including the Electronic Commerce (EC Directive) Regulations 2002;

**Effective Date**

the date of this Agreement;

**Encumbrance**

any mortgage, charge (fixed or floating), pledge, lien, option, hypothecation, restriction, right to acquire, right of pre-emption or interest (legal or equitable) including any assignment by way of security, reservation of title, guarantee, trust, right of set off or other third party right or any other security interest having a similar effect howsoever arising;

**Environmental Laws**

all statutes, rules, regulations, statutory instruments, treaties, directives, directions, by-laws, codes of practice, circulars, guidance notes, orders, notices, demands or injunctions of any governmental authority or agency or any regulatory or other body, or any common law duty of care in any jurisdiction in relation to Environmental Matters;

**Environmental Licences**

every licence, registration, permit, authorisation, approval, consent or like matter relating to Environmental Matters which is necessary in connection with the commencement and continuation of the use of any Property or any process or activity carried on at any Property, including any conditions or limitations imposed on, or any subsequent amendment or alteration made to, any such licence, registration, permit, authorisation, approval or consent;

**Environmental Matters**

any of the following:

- (a) the release, emission, entry or introduction of any Relevant Substance into the air including the air within buildings and other natural or man-made structures, whether above or below ground;
- (b) the discharge, release or entry of any Relevant Substance into water (whether natural or artificial, above or below ground) including into any river, water course, lake, loch, pond or reservoir or the surface of the river bed or of other land supporting such waters, ground waters (as defined in section 1(12) of the EPA), sewer or the sea;
- (c) the release, deposit, keeping or disposal of any Relevant Substance in or on land, whether or not covered by the sea or other waters;
- (d) the deposit, disposal, keeping, treatment, importation, exportation, transportation, handling, processing, manufacture, collection, sorting or presence of any Relevant Substance;
- (e) any deposit, disposal, keeping, treatment, importation, production or carrying of any waste, including any substance which constitutes scrap material or any effluent or other unwanted surplus substance arising from the application of any process or activity (including making it re-usable or re-claiming substances from it) and any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoiled;
- (f) nuisance, noise, defective premises, health and safety at work, industrial illness, industrial injury due to environmental factors, environmental health problems, the conservation, preservation and protection of the natural or built environment or of man or any living organisms supported by the environment; or
- (g) any other matter whatsoever affecting the environment or any part of it;

**EPA**

the Environmental Protection Act 1990;

**Estimated Net Indebtedness**

£0;

### **Estimated Working Capital**

£1,641,000;

### **General Warranties**

the statements in schedule 4 and clause 6.10;

### **Health & Safety Laws**

all applicable statutes, statutory legislation, common law, treaties, regulations, directives, codes of practice and guidance notes (which have legal effect) in force from time to time concerning the health and safety of those who work for the Company whether as employees or otherwise, or are in any way affected by the activities of the Company or by persons working for or on behalf of the Company;

### **Health & Safety Matters**

any matters relating to the Company which arise under Health & Safety Laws;

### **Indebtedness**

the aggregate of any indebtedness of the Company outstanding as at close of business on the Completion Accounts Date (calculated or referred to in pounds sterling), including indebtedness for borrowed monies of the Company to banks, providers of finance, other financial institutions, the Sellers or any third party (whether by way of overdraft, loan, bond, forward sale or purchase agreement or any other transaction having the commercial effect of borrowing and including all outstanding or accrued or due interest thereon including any termination or repayment-related fees), including:

- (a) any bank debt, including any debit balances on any bank accounts, (whether or not then due for repayment) gross of unamortised legal or other expenses in respect of such debt;
- (b) any amount raised by the Company by acceptance under any acceptance credit facility;
- (c) any amount raised by the Company pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) any amounts owed by the Company under any finance leases, hire, rental, hire purchase, credit sale or other conditional purchase or lease of assets agreements together with interest and related charges (excluding operating and property leases);
- (e) any corporation tax (or equivalent) accruals in respect of profits generated by the Company up to the close of business on the Completion Accounts Date, or interest accruals of the Company (excluding deferred tax);
- (f) any accrued and/or unpaid contractual, discretionary or otherwise bonus, whether related to a sale of the Company or otherwise howsoever payable to employees or consultants of the Company or any of them;
- (g) any outstanding amount owing to any Seller or any person connected with any Seller on any account whatsoever;
- (h) any and all unpaid transaction costs in connection with the sale of the Shares in accordance with this Agreement; and
- (i) any and all deferred income,
- (j) but excluding:
- (k) any Indebtedness that is to be included in the calculation of Working Capital in accordance with schedule 9, as derived from the Completion Accounts;

### **Initial Consideration**

£7,575,000;

### **Intellectual Property**

all intellectual property rights, including:

- (a) patents, registered and unregistered trade and service marks, business names, domain names, copyright, rights in designs, rights in inventions, database rights and topography rights (whether or not registered);
- (b) applications for any of the rights in (a) above, together with the right to apply for registration of such rights;
- (c) know-how, trade secrets, confidential information, technical information, customer and supplier lists and any other proprietary knowledge and/or information of whatever nature and howsoever arising,

together with any rights or types of protection of the same or of a similar nature to those listed in (a), (b) or (c) which may subsist anywhere in the world and in each case for their full term and/or effect;

### **Intellectual Property Agreement**

any licence, consent or permission to use any Intellectual Property (including any unwritten or informal arrangement) including those set out in part 3 of schedule 8;

### **Losses**

any losses (including loss of profits, loss of reputation and consequential losses), claims, judgments, costs (including costs of enforcement and legal costs), damages, awards, charges, demands, proceedings, penalties, fines, expenses and/or any other liabilities incurred or sustained, or which may, directly or indirectly, be incurred or sustained;

<name redacted>

<name redacted>

**Management Accounts**

the unaudited balance sheet and profit and loss account and cashflow statement of the Company for the 15 month period ended on the Management Accounts Date;

**Management Accounts Date**

30 November 2015;

**Net Indebtedness**

Indebtedness less Cash, as calculated and agreed or determined in accordance with schedule 9 and as set out in the Net Indebtedness Statement forming part of the Completion Accounts;

**Net Indebtedness Statement**

has the meaning given in schedule 9;

**Parties**

the parties to this Agreement, and **Party** shall be consulted accordingly, and both terms shall be interpreted in accordance with clause 1.2.6;

**Pension Scheme**

the group personal pension scheme administered by Royal London;

**Permitted Payments**

any payments made by the Company to the Sellers or any of them since the Completion Accounts Date and which are included in the list of permitted payments set out in part 5 of Schedule 9;

**Products or Services**

products or services which are of the same kind as or of a materially similar kind to or competitive with any products or services sold or supplied by the Company within the Relevant Period;

**Prohibited Activities**

the business of the Company as undertaken by the Company during the Relevant Period;

**Properties**

all the leasehold properties owned or occupied by the Company, brief details of which are set out in part 1 of schedule 7 and each of them a **Property**;

**Property Warranties**

the statements in part 2 of schedule 7;

**Recognised Investment Exchange**

has the meaning given in section 285(1) Financial Services and Markets Act 2000;

**Records**

together:

- (a) accounts, books, ledgers, financial and other records of whatsoever kind of the Company, including all documentation relating to the contracts and employees of the Company, all invoices and other records required for VAT purposes, tax records and all lists of customers and suppliers of the Company in each case however stored and howsoever connected to the Company and the Computer Systems; and
- (b) all technical and sales material of the Company, including plans, technical and sales publications, designs, drawings and any negatives, blocks, plates and other similar material;

**Relevant Period**

the period of 12 months immediately prior to Completion;

**Relevant Substance**

any hazardous, dangerous, toxic, poisonous, noxious, offensive, radioactive, flammable, explosive, infectious or polluting substance, including asbestos, polychlorinated biphenyls or terphenyls (PCBs or PCTs), petroleum (including crude oil any fractions of crude oil and any petroleum produce and distillates), radon gas, batteries and any other substance or waste described or listed in or pursuant to any Environmental Laws as hazardous, dangerous, special, toxic, radioactive, noxious or offensive and any other substance which is included under or regulated by or pursuant to any Environmental Laws relating to matters which come within the scope of the definition of Environmental Matters or anything made using any of those substances;

**Restricted Territory**

any territory in which the Company has carried on business during the Relevant Period;

**Sellers' Accountants**

Dains LLP of 15 Colmore Row, Birmingham, B3 2BH;

**Sellers' Representative**

George Green LLP of 195 High Street, Cradley Heath, West Midlands B64 5HW (reference PRB);

**Sellers' Solicitors**

George Green LLP of 195 High Street, Cradley Heath, West Midlands B64 5HW;

**Shares**

75,000 A ordinary shares of £1 each and 179,453 ordinary shares of £1 each, in the capital of the Company, comprising the whole of the share capital of the Company;



**Specific Accounting Policies**

the specific accounting policies, principles, practices, procedures, judgments, categorisations, estimations and techniques set out in part 2 of schedule 9;

**Tax**

has the meaning given in schedule 6;

**Tax Authority**

has the meaning given in schedule 6;

**Tax Claim**

has the meaning given in schedule 6;

**Tax Covenant**

the covenants relating to Tax contained in part 2 of schedule 6;

**Tax Warranties**

the statements in part 3 of schedule 6;

**TCGA 1992**

the Taxation of Chargeable Gains Act 1992;

**Technical Information**

all data, formulae, techniques, trade secrets, expertise, proprietary knowledge, know-how, designs, drawings, recipes, specifications, instructional materials and other such information, of whatever nature, used by the Company in connection with its business;

**UKLA**

the United Kingdom Listing Authority or any other competent authority for the time being for the purposes of Part VI Financial Services and Markets Act 2000;

**VAT**

value added tax within the meaning of the VATA;

**VATA**

the Value Added Tax Act 1994;

**Warranties**

the General Warranties, the Tax Warranties and the Property Warranties and references to Warranty shall be construed accordingly;

**Warrantors**

Robert Phillips and Michael Allen;

**Working Capital**

the working capital of the Company at the Completion Accounts Date, being a sterling sum equal to the aggregate of all those line items included within the Pro-forma Working Capital Statement set out in part 3 of schedule 9 as calculated and agreed or determined in accordance with schedule 9 and as set out in the Working Capital Statement forming part of the Completion Accounts;

**Working Capital Statement**

has the meaning given in schedule 9.

1.2 In this Agreement, a reference to:

- 1.2.1 a clause or schedule is, unless otherwise stated, a reference to a clause of, or a schedule to, this Agreement;
- 1.2.2 a paragraph is, unless otherwise stated, a reference to a paragraph of a schedule;
- 1.2.3 a statutory provision includes a reference to that statutory provision as replaced, modified or re-enacted from time to time and any subordinate legislation made under that statutory provision from time to time, in each case whether before or after the date of this Agreement provided that, as between the Parties, no such replacement, modification or re-enactment made after the date of this Agreement shall apply for the purposes of this Agreement to the extent it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any Party;
- 1.2.4 a "subsidiary" includes a reference to a "subsidiary" and a "subsidiary undertaking" (each as defined in the Act) and a reference to a "holding company" includes a reference to a "holding company" and a "parent undertaking" (each as defined in the Act);
- 1.2.5 a person includes a reference to an individual, body corporate, association, government, state, agency of state or any undertaking (whether or not having a legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists);
- 1.2.6 a Party means a party to this Agreement and includes its permitted assignees and/or the successors in title to substantially the whole of its undertaking and, in the case of an individual, to his estate and personal representatives;
- 1.2.7 a company (other than the "Company") shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.8 writing includes, subject to clause 15.3, any mode of reproducing words in a legible and non-transitory form; and
- 1.2.9 this Agreement or any provision of this Agreement or any other document are to this Agreement, that provision or that document as in force for the time being and as amended from time to time in accordance with the terms of this Agreement or that document or with the agreement of the relevant parties (as the case may be).

1.3 The schedules form part of this Agreement and have the same effect as if expressly set out in the body of this Agreement and shall be interpreted and construed as though they were set out in this Agreement.

- 1.4 The contents table and headings in this Agreement are for convenience only and do not affect the interpretation or construction of this Agreement.
- 1.5 Words importing the singular include the plural and vice versa and words importing a gender include every gender.
- 1.6 The words "other", "include", "including" and "in particular" do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.
- 1.7 All agreements, obligations and liabilities on the part of the Sellers or any two or more of the Sellers contained in or arising under this Agreement are save as expressly provided joint and several and shall be construed accordingly.
- 1.8 Any question as to whether a person is connected with another shall be determined in accordance with section 1122 of the CTA 2010 (except that in construing section 1122 "control" has the meaning given by section 1124 or section 450 of the CTA 2010 so that there is control whenever section 1124 or 450 requires) which shall apply in relation to this Agreement as it applies in relation to the CTA 2010.
- 1.9 Unless specified otherwise, or where the context otherwise requires, a reference to the "Company" shall be deemed to include a reference to each subsidiary so that, for the avoidance of doubt but without any limitation, the Warranties, any indemnity and the Tax Covenant shall be given in respect of and in relation to the Company and each subsidiary.
- 1.10 Where in this Agreement any party gives an indemnity in favour of another party then, subject as expressly provided otherwise in this Agreement, the obligation of the indemnifying party shall be to make the relevant payment in full on demand and without any set-off, counterclaim or other deduction.

## 2. SALE AND PURCHASE OF THE SHARES

- 2.1 Each Seller shall sell with full title guarantee and free from any Encumbrance, and the Buyer shall buy, the number of Shares set opposite the name of that Seller in schedule 1.
- 2.2 Section 6(2) Law of Property (Miscellaneous Provisions) Act 1994 shall not apply for the purpose of this Agreement.
- 2.3 Title to, beneficial ownership of and any risk attaching to the Shares shall pass to the Buyer on Completion and the Shares shall be sold and purchased together with all rights and benefits attached to or accruing to them at, or at any time after, Completion.
- 2.4 Each of the Sellers:
- 2.4.1 waives any right of pre-emption over or in respect of the Shares (or any of them) which may have been conferred on him, whether under the articles of association of the Company or otherwise;
  - 2.4.2 undertakes to procure that any right of pre-emption over any of the Shares which may be vested in any other person is waived; and
  - 2.4.3 covenants with the Buyer that the Shares are fully paid (or credited as fully paid) and constitute the whole of the share capital of the Company.
- 2.5 The Buyer shall not be required to complete the purchase of any of the Shares unless all of the Shares are transferred at the same time.

## 3. CONSIDERATION

- 3.1 The Consideration shall be an amount equal to the Initial Consideration, as adjusted after Completion in accordance with clause 4 and schedule 9.
- 3.2 The Consideration shall be apportioned between the Sellers in the amounts set opposite their respective names in schedule 1 but the Buyer shall not be concerned to see to the division of the Consideration amongst the Sellers.
- 3.3 The Initial Consideration shall be paid in cash at Completion on account of the Consideration and any further payment (or repayment, as the case may be) shall be paid in accordance with clause 4.3.
- 3.4 Unless otherwise agreed in writing between the Parties, any sum due from one Party to another under any provision of this Agreement shall be paid by telegraphic transfer of funds to the receiving Party's solicitors. The receipt of the receiving Party's solicitors will give a full and valid discharge to the paying Party who shall not be obliged to see to the application of such monies.

## 4. ADJUSTMENT OF CONSIDERATION

- 4.1 The Completion Accounts shall be prepared, and each of the Working Capital and Net Indebtedness determined, in accordance with schedule 9.
- 4.2 The Consideration shall be adjusted as follows:
- 4.2.1 if the Working Capital is less than the Estimated Working Capital, there shall be deducted the amount by which the Working Capital is less than the Estimated Working Capital;
  - 4.2.2 if the Working Capital is greater than the Estimated Working Capital, there shall be added the amount by which the Working Capital is greater than the Estimated Working Capital;
  - 4.2.3 if the Net Indebtedness is less than the Estimated Net Indebtedness, there shall be added the amount by which the Net Indebtedness is less than the Estimated Net Indebtedness; and
  - 4.2.4 if the Net Indebtedness is greater than the Estimated Net Indebtedness, there shall be deducted the amount by which the Net Indebtedness is greater than the Estimated Net Indebtedness.
- 4.3 Within 5 Business Days of the date on which the Completion Accounts are agreed or determined in accordance with schedule 9 if the Consideration, adjusted in accordance with clause 4.2, is:
- 4.3.1 greater than the Initial Consideration, the Buyer shall pay to the Sellers an amount equal to the amount by which the Consideration exceeds the Initial Consideration, such amount to be apportioned between the Sellers in the proportions set opposite their respective names in schedule 1 (although the Buyer shall not be concerned to see to the division of the Consideration amongst the Sellers) and to be paid in accordance with clause 3.4; or
  - 4.3.2 less than the Initial Consideration, the Sellers shall repay to the Buyer an amount equal to the amount by which the Consideration is less than the Initial Consideration, such amount to be paid by the Sellers in the proportions set opposite their respective names in schedule 1 and to be paid in accordance with clause 3.4 and all such payments shall be made without any deduction or set off whatsoever.

5. **COMPLETION**

5.1 Completion shall take place at the office of the Buyer's Solicitors on the Effective Date when each of the matters set out in schedule 3 shall occur.

5.2 Upon completion of the matters referred to in schedule 3 the Buyer shall pay the Consideration in the manner specified in clause 3.4.

6. **WARRANTIES AND INDEMNITIES**

6.1 The Sellers (other than MJF Pension Trustees Limited) severally warrant to the Buyer in the terms of the Warranties set out in paragraph 35 of schedule 4 and clause 6.10. The Warrantors warrant to the Buyer in the terms of the Warranties.

6.2 The Warranties are subject only to:

6.2.1 any matter which is Disclosed; and

6.2.2 the provisions of schedule 5, provided that none of the limitations in schedule 5 shall apply in respect of a breach of any of the Warranties in paragraphs 2 or 35 in schedule 4 and clause 6.10.

6.3 The Sellers acknowledge that the Buyer is entering into this Agreement in reliance on each of the Warranties.

6.4 Save as provided in clause 6.2:

6.4.1 no information of which the Buyer has knowledge (actual, constructive or imputed) shall prevent or limit a claim made by the Buyer for breach of clause 6.1; and

6.4.2 neither the rights and remedies of the Buyer, nor the Sellers' liability in respect of the Warranties, shall be affected by any investigation made by or on behalf of the Buyer into the Company.

6.5 The Warrantors waive and may not enforce any right which they may have in respect of any misrepresentation, inaccuracy or omission in or from any information or advice supplied or given by the employees or officers of the Company for the purpose of assisting the Sellers to make a representation, give a Warranty or prepare the Disclosure Letter.

6.6 Each of the Warranties (and each sub-paragraph within each Warranty) shall be interpreted as a separate and independent warranty so that the Buyer shall have a separate claim and right of action in respect of every breach of each Warranty. Each Warranty shall be construed independently and, except where this Agreement provides otherwise, is not limited by the terms of any other Warranty or any other provision of this Agreement.

6.7 Unless otherwise specified, where any Warranty refers to the knowledge, information, belief or awareness of the Warrantors (or any similar expression), the Warrantors shall be deemed to have such knowledge, information, belief and awareness as the Warrantors would have obtained had they made all due and careful enquiry of each other, Steve Lamb, James Grenfell, Debbie Hodgetts and each senior employee in the Company who has responsibility for, or oversight over, the particular function or area which is the subject matter of the Warranty and the Auditors and the Sellers' Solicitors, and no further enquiry shall be required into the subject matter of that Warranty.

6.8 Without limiting the rights of the Buyer or its ability to claim damages on any basis, if there is a breach of Warranty or any of the Warranties is untrue or misleading, and:

6.8.1 the Company incurs or becomes subject to a liability or an increase in any liability which it would not have incurred or been subject to had the breach not occurred; or

6.8.2 the value of any asset of the Company is less or becomes less than the value would have been had the breach not occurred,

then the Warrantors undertake to the Buyer (for itself and as trustee of the benefit of this clause 6.8 for the Company) to pay to the Buyer (or as the Buyer elects) in cash on demand a sum equal to:

6.8.3 the liability, increased liability or reduction in the value of the asset (as appropriate); or

6.8.4 the reduction in the value of the Shares caused by the breach.

6.9 Any payment required to be made by the Sellers pursuant to this clause 6 shall be:

6.9.1 paid in cash; and

6.9.2 deemed to be a reduction in the Consideration.

6.10 Each Seller (other than MJF Pension Trustees Limited) severally warrants that:

6.10.1 no bankruptcy order has been made in respect of itself nor has any petition been presented to make itself bankrupt;

6.10.2 no application has been made in respect of itself for an interim order under section 253 Insolvency Act 1986, no person has been appointed by the court to prepare a report in respect of itself under section 273 Insolvency Act 1986 and no interim receiver has been appointed to the property of itself under section 286 Insolvency Act 1986;

6.10.3 it is not unable to pay, and there is no reasonable prospect of it being unable to pay, any debt as those expressions are defined in section 268 Insolvency Act 1986;

6.10.4 it has full power and authority, and has taken all action necessary (including obtaining all necessary consents or approvals) to enter into and perform this Agreement and any other deeds, agreements or documents to be entered into pursuant to this Agreement; and

6.10.5 it is entitled to sell the Shares registered in its name with full title guarantee on the terms of this Agreement without the consent of any third party and such sale will not result in any breach of or default under any agreement or obligation binding upon it.

7. **TAX**

The provisions of schedule 6 shall apply.

8. **RESTRICTIONS ON THE WARRANTORS**

8.1 The Warrantors severally undertake to the Buyer (for the benefit of itself and the Company) that they will not, either solely or jointly, directly or indirectly, alone or in conjunction with or on behalf of or through any other person and whether as a principal, shareholder, director, employee, agent, consultant, partner, member or any other capacity, for a period of two (2) years following the Completion Date

- 8.1.1 within the Restricted Territory carry on or be engaged, concerned or interested in, or provide technical, commercial, professional or other advice to, any other business which supplies Products or Services in competition with the Company;
- 8.1.2 within the Restricted Territory be employed, engaged, concerned or interested, directly or indirectly, in any business which at any time during the Relevant Period has supplied products or services to the Company;
- 8.1.3 do or attempt to do anything which causes or may cause any supplier who has supplied products or services to the Company during the Relevant Period to cease, alter or materially reduce its supplies to the Company or to alter the terms on which it supplies the Company;
- 8.1.4 in competition with the Company, solicit any order, enquiry or business in respect of any Prohibited Activities, or for the sale or supply of any Products or Services, from any Customer;
- 8.1.5 in competition with the Company, accept any order, enquiry or business in respect of any Prohibited Activities, or for the sale or supply of any Products or Services, from any Customer;
- 8.1.6 solicit, induce or entice away from the Company, or attempt to solicit, induce or entice away from the Company, in any case in connection with a business in or proposing to be in competition with the Company, a Critical Person, whether or not such person would commit any breach of his contract of employment or engagement by leaving the service of the Company; or
- 8.1.7 employ or engage, or offer to employ or engage, in any case in connection with a business in or proposing to be in competition with the Company, a Critical Person, whether or not such person would commit any breach of his contract of employment or engagement by accepting such employment or engagement.
- 8.2 The Sellers severally undertake to the Buyer (for the benefit of itself and the Company) that they will not, either solely or jointly, directly or indirectly, alone or in conjunction with or on behalf of or through any other person and whether as a principal, shareholder, director, employee, agent, consultant, partner, member or other capacity, at any time after Completion, except to the extent they remain in the capacity of an employee, representative or agent of, and at the direction of the Company:
- 8.2.1 hold themselves out as having any continuing involvement with the Company;
- 8.2.2 do or say anything which is, or which could reasonably be foreseen to be, harmful to the reputation or goodwill of the Company; or
- 8.2.3 in relation to a business which is, or is proposing to be, in competition with the Company, use, whether as a company name, trading name or otherwise, the name "Accutronics" or any other name used by the Company in connection with its business activities (or any other names which may be confused with such names).
- 8.3 Each of the restrictions contained in clauses 8.1 and 8.2 are to be treated as separate obligations, independent of the others.
- 8.4 The Parties consider the restrictions contained in clauses 8.1 and 8.2 to be reasonable as between themselves and the public interest. If, however, any of them are found by a court to be unreasonable or unenforceable, but would be reasonable and enforceable if deleted in part or reduced in application, then the restrictions shall apply with such deletion or modification as may be necessary to make it reasonable and enforceable.
- 8.5 Nothing in this clause 8 shall prevent any Seller from being the holder of or beneficially interested in any class of securities in any company if such class of securities is listed or dealt in on any other Recognised Investment Exchange and confers not more than 3% of the votes which can generally be cast at a general meeting of that company.
- 8.6 Each of the Sellers agrees with the Buyer that he will, at the Buyer's request and cost, enter into a direct undertaking executed as a deed with the Company whereby he will accept restrictions corresponding to the restrictions in clauses 8.1 and 8.2.
- 8.7 Each of the Sellers shall procure that any person connected with him complies with the restrictions set out in clauses 8.1 and 8.2.

## **9. FURTHER UNDERTAKINGS AND OBLIGATIONS OF THE SELLERS**

### **9.1 Waiver of claims**

Each Seller severally confirms that at the date of this Agreement:

- 9.1.1 neither he nor any person connected with him has any claim against the Company on any account whatsoever;
- 9.1.2 there are no agreements or arrangements under which the Company has any actual, contingent or prospective obligation to or in respect of him or any person connected with him save in relation to the service agreements between each of the Warrantors and the Company; and
- 9.1.3 any claim which he or any person connected with him has against the Company is waived in full, any obligation owed to him or any such connected person by the Company is released and each Seller severally indemnifies the Buyer and the Company against all Losses which the Buyer or the Company incurs or suffers, directly or indirectly, in any way whatsoever in connection with any such claim by or obligation to such Seller (other than any claim by either Warrantor pursuant to his service agreement).

### **9.2 Further assurance**

- 9.2.1 Each Seller severally covenants with the Buyer that he will at his own cost do everything possible to give the Buyer full and unrestricted legal and beneficial title to the Shares transferred by him and to give effect to the provisions of this Agreement including, on receiving the Buyer's request:
- (a) doing and executing, or arranging for the doing and executing of, each act, document and thing necessary to implement this Agreement; and
- (b) giving to the Buyer all information they possess or to which they have access relating to the Company's business and allowing the Buyer to copy any document containing that information.
- 9.2.2 Immediately following Completion the Sellers shall (and shall procure that any other person shall) send to the Buyer at its registered office for the time being all records, correspondence, documents, files, memoranda and other papers belonging to the Company and which are not located at a Property or delivered at Completion (whether or not such documents are referred to in schedule 3).

### **9.3 Dealing with Shares pending registration**

- 9.3.1 Each Seller severally undertakes to the Buyer that for so long as he remains the registered holder of any of the Shares

after Completion he will:

- (a) hold such Shares and the dividends and other distributions of profits or surplus or other assets declared, paid or made in respect of such Shares after Completion and all rights arising out of or in connection with such Shares in trust for the Buyer;
- (b) deal with and dispose of such Shares and all such dividends, distributions and rights as the Buyer may direct;
- (c) vote at all meetings which they are entitled to attend as the registered holder of such Shares in such manner as the Buyer shall direct; and
- (d) execute all instruments of proxy or other documents which the Buyer may require to enable the Buyer to attend and vote at any such meeting.

9.3.2 For the purpose of giving effect to clause 9.3.1 each of the Sellers severally appoints the Buyer (acting by any of its directors from time to time) to be his attorney in his name and on his behalf to exercise all or any of the rights in relation to the Shares as the Buyer in its absolute discretion sees fit from immediately after Completion to the day on which the Buyer or its lawful nominee is registered in the register of members of the Company as the holder of the relevant Shares, including:

- (a) receiving notice of, attending and voting at a general meeting, class meeting or other meeting of the Company;
- (b) completing and returning any meeting requisition, form of proxy, consent to short notice, written resolution or other document required to be signed by the registered holder of the Shares;
- (c) dealing with, and giving directions as to, any moneys, securities, benefits, documents, notices or other communications (in whatever form) arising by right of the Shares or received in connection with the Shares from the Company or any other person; and
- (d) executing, delivering and doing all deeds, instruments and acts in that Seller's name as may be done in the Seller's capacity as the registered holder of the relevant Shares

and for that purpose each Seller consents to the Company sending any written resolutions, notices or other communications in respect of the Shares registered in his name to the Buyer. The power of attorney granted by this clause 9.3.2 is granted by each Seller to secure the interest of the Buyer in the Shares and, accordingly, shall be irrevocable. For the avoidance of doubt, only after Completion will the votes attaching to the Shares be exercisable by the Buyer under the power of attorney granted by this clause 9.3.2.

## 10. CONFIDENTIAL INFORMATION

10.1 Each of the Sellers severally undertakes with the Buyer (for itself and for the benefit of the Company) that he will:

- 10.1.1 not use or disclose to a person Confidential Information he has or acquires; and
- 10.1.2 make every effort to prevent the use or disclosure of Confidential Information.

10.2 Clause 10.1 does not apply to:

- 10.2.1 disclosure of Confidential Information to a director, officer or employee of the Buyer or the Company whose function requires him to have the Confidential Information;
- 10.2.2 use or disclosure of Confidential Information required to be used or disclosed by law or by London Stock Exchange plc or by any governmental or regulatory body but only to the extent required by law, and with advance or contemporaneous notice of same to Buyer;
- 10.2.3 disclosure of Confidential Information to an adviser for the purpose of advising the Sellers but only on terms that clause 10.1 applies to use or disclosure by the adviser; or
- 10.2.4 Confidential Information which becomes publicly known except by a breach of clause 10.1.

## 11. ANNOUNCEMENTS

11.1 Subject to clauses 10 and 11.2, no Party shall make or authorise any public announcement or other communication or circular concerning the terms of any matter contemplated by or ancillary to this Agreement without the prior written consent of the other Party such consent not to be unreasonably withheld or delayed.

11.2 The Parties may:

- 11.2.1 make or authorise an announcement required by law or by the UKLA, London Stock Exchange plc, any Recognised Investment Exchange or any regulatory or governmental body (whether or not such requirement has the force of law) provided that:
  - (a) such Party has consulted with and taken into account the requirements of the other Party; and
  - (b) such Party has used reasonable endeavours to obtain confidentiality undertakings from any relevant securities exchange or regulatory or governmental body; and
- 11.2.2 make a communication to their professional advisers in connection with advice relating to the interpretation of this Agreement, proceedings relating to the enforcement of the terms of this Agreement or otherwise.

## 12. ASSIGNMENT AND SUCCESSORS IN TITLE

12.1 No Party shall assign, transfer, charge, make the subject of a trust or deal in any other manner with this Agreement or any of its rights under this Agreement or purport to do any of the same without the prior written consent of the other Party except that the Buyer may assign at any time the benefit of any provision to which it is entitled from time to time:

- 12.1.1 to any company which is for the time being a subsidiary or holding company of the Buyer, or another subsidiary of any such holding company, provided that and subject to the condition that if any such company ceases to be such a holding company or subsidiary then the Buyer shall procure that upon such cessation the benefit of any relevant provision shall be reassigned or transferred back to the Buyer; or
- 12.1.2 by way of security to any financial institution(s) which has or have agreed to advance credit facilities to the Buyer to assist in the acquisition contemplated by this Agreement,

provided that no assignee shall be entitled to greater damages or other compensation than that to which the Buyer would have been entitled had it not assigned the benefit of those provisions.

12.2 This Agreement shall be binding upon and shall survive for the benefit of the personal representatives and successors-in-title of each party.

### 13. **THIRD PARTY RIGHTS**

13.1 Subject to clauses 12.2 and 13.3, a person who is not a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or rely on a provision of this Agreement. No Party may hold itself out as trustee of any rights under this Agreement for the benefit of any third party unless specifically provided for in this Agreement.

13.2 The Company, any person to whom the benefit of any provision of this Agreement is assigned in accordance with clause 12.1 and each person falling within the category of persons described in clause 12.2 is entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement which confers (expressly or impliedly) any benefit on any such person.

13.3 The employees of the Company may enforce the provisions of clause 6.5.

### 14. **THE SELLERS' REPRESENTATIVE**

14.1 Any consent, agreement, direction or waiver given or made by the Sellers' Representative for the purpose of this Agreement shall be binding upon all of the Sellers.

14.2 Delivery of any notice, document or payment required to be made to the Sellers or any of them pursuant to this Agreement may be made to the Sellers' Representative whose receipt for such delivery or payment shall be an absolute discharge of the party making the same who shall not be concerned as to the destination of such delivery or the application of such payment (as the case may be).

14.3 The Sellers authorise the Sellers' Representative to act in the way contemplated by this Agreement and to take such decisions as he shall at his entire discretion determine and, provided he or it acts in good faith, the Sellers' Representative shall have, and accepts, no liability to any of the Sellers or to any other person other than the Buyer in connection with or as a result of anything which the Sellers' Representative does, refrains from doing or neglects or omits to do in connection with any matter relating to the Agreement.

### 15. **NOTICES**

15.1 Any notice given pursuant to this Agreement shall be in writing signed by, or on behalf of, the person issuing the notice. Any notice shall be delivered (i) by hand; (ii) by prepaid certified mail (return receipt required); or: (iii) by reputable express courier to:

15.1.1 in the case of each Seller, his address set out in schedule 1; and

15.1.2 in the case of the Buyer, its registered office address for the time being marked for the attention of Philip A. Fain, Chief Financial Officer, with a copy to Paul D. Underberg, General Counsel, or their successors,

or, in relation to any Party, such other address for service in the United Kingdom as that Party may from time to time notify to the others.

15.2 In the absence of evidence of earlier receipt, a notice served in accordance with clause 15.1 shall be deemed to have been received at the time of actual delivery to the address referred to in clause 15.1 or the time of refusal to accept delivery.

15.3 For the avoidance of doubt, notice given under this agreement shall not be validly served if sent by fax or e-mail.

### 16. **GENERAL**

16.1 Except where this Agreement provides otherwise, each Party shall pay its own costs (including in relation to financial, accounting and legal advice) incurred in relation to the negotiation, preparation, execution and performance of this Agreement and the matters referred to in this Agreement.

16.2 This Agreement, together with any documents in the Agreed Form and all documents entered into or to be entered into pursuant to the terms of this Agreement, constitutes the entire agreement between the Parties with respect to all matters referred to in this Agreement. This Agreement supersedes and extinguishes all previous agreements between the Parties relating to such matters, other than in relation to any fraud or fraudulent misrepresentation.

16.3 No variation to this Agreement shall be effective unless made in writing and signed by or on behalf of all the Parties. The Buyer and the Sellers shall not be required to obtain the consent of the Company or any other third party on whom a benefit is conferred under this Agreement to the termination or variation of this Agreement or to the waiver or settlement of any right or claim arising under it.

16.4 Each provision of this Agreement is severable and distinct from the others. If at any time any provision of this Agreement is or becomes unlawful, invalid or unenforceable to any extent or in any circumstances for any reason, it shall to that extent or in those circumstances be deemed not to form part of this Agreement but (except to that extent or in those circumstances in the case of that provision) the legality, validity and enforceability of that and all other provisions of this Agreement shall not be affected in any way.

16.5 If any provision of this Agreement is found to be unlawful, invalid or unenforceable in accordance with clause 16.4 but would be lawful, valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it lawful, valid or enforceable.

16.6 The failure or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of that (or any other) right or remedy. No single or partial exercise, or non-exercise or non-enforcement of any right or remedy provided by this Agreement or by law prevents or restricts any further or other exercise or enforcement of that (or any other) right or remedy.

16.7 The Buyer may release or compromise the whole or any part of the liability of any one or more of the Sellers under any provision of this Agreement, or grant to any Seller time or other indulgence, without affecting the liability of any other Seller. No waiver by the Buyer of, or delay in enforcing, any of the provisions of this Agreement shall release any Seller from full performance of his remaining obligations under this Agreement.

16.8 The Buyer's rights, powers and remedies contained in this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by law.

16.9 Except to the extent that they have been performed or where this Agreement provides otherwise, the obligations contained in this Agreement remain in force after Completion.

16.10 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original. All the counterparts shall together constitute one and the same agreement, which shall be deemed executed when counterparts executed by all of the Parties are delivered.

### 17. **GOVERNING LAW**

- 17.1 This Agreement shall be governed by and interpreted in accordance with the laws of England and Wales. Non-contractual obligations (if any) arising out of or in connection with this Agreement (including its formation) shall be governed by the laws of England and Wales.
- 17.2 Subject to schedule 9, the Parties agree to submit to the exclusive jurisdiction of the English Courts in relation to any claim or matter (whether contractual or non-contractual) arising under this Agreement or any of the documents in the Agreed Form.
- 17.3 Each party irrevocably waives any objection which it might at any time have to the English Courts being nominated as the forum to decide any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this Agreement (including non-contractual disputes and claims) and agrees not to claim that the English Courts are not a convenient or appropriate forum.

**THE PARTIES** have executed this Agreement as a deed and delivered it on the date first set out above

**SCHEDULE 1****Sellers**

<b>Name and address</b>	<b>Number and class of Shares sold</b>	<b>Initial Consideration (£)</b>	<b>Proportion of Consideration (%)</b>
<b>ROBERT ANDREW PHILLIPS of &lt;Address redacted&gt;</b>	50,000 ordinary	1,488,487	19.65
<b>INTRINSIC EQUITY LIMITED of One Eleven, Edmund Street, Birmingham B3 2HJ</b>	65,000 ordinary	1,935,033	25.55
<b>MJF PENSION TRUSTEES LIMITED of 8 St Stephen Street, Manchester M3 6AY and PETER LINDSEY JACKSON of &lt;Address redacted&gt; as trustees of the Michael J Field SIPPS (P L Jackson a/c)</b>	60,000 ordinary	1,786,184	23.58
<b>MICHAEL ALLEN of &lt;Address redacted&gt;</b>	4,453 ordinary	132,564	1.75
<b>CATAPULT GROWTH FUND LIMITED PARTNERSHIP of 10-11 Burrough Court, Burrough on the Hill, Melton Mowbray, Leicestershire LE14 2QS</b>	75,000 A ordinary	2,232,730	29.47
<b>TOTAL</b>		<b>7,575,000</b>	<b>100</b>



**SCHEDULE 2**

**The Company**

<b>Name</b>	Accutronics Limited														
<b>Registered number</b>	06999250														
<b>Previous names</b>	None														
<b>Date of incorporation</b>	24.08.2009														
<b>Place of incorporation</b>	England and Wales														
<b>Registered office address</b>	Unit 20 Loomer Road, Chesterton, Newcastle-under-Lyme, Staffordshire ST5 7LB														
<b>Share capital</b>	<p>£254,453 divided into 75,000 A ordinary shares of £1 each and 179,453 ordinary shares of £1 each, registered as follows:</p> <table border="0"> <thead> <tr> <th align="left"><b>Shareholder</b></th> <th align="right"><b>No. of shares</b></th> </tr> </thead> <tbody> <tr> <td>Robert Andrew Phillips</td> <td align="right">50,000 Ordinary</td> </tr> <tr> <td>Intrinsic Equity Limited</td> <td align="right">65,000 Ordinary</td> </tr> <tr> <td>MJF Pension Trustees Limited and Peter Lindsey Jackson as trustees of the Michael J Field SIPPS (P L Jackson a/c)</td> <td align="right">60,000 Ordinary</td> </tr> <tr> <td>Michael Allen</td> <td align="right">4,453 Ordinary</td> </tr> <tr> <td>Catapult Growth Fund Limited Partnership</td> <td align="right">75,000 A Ordinary</td> </tr> </tbody> </table>			<b>Shareholder</b>	<b>No. of shares</b>	Robert Andrew Phillips	50,000 Ordinary	Intrinsic Equity Limited	65,000 Ordinary	MJF Pension Trustees Limited and Peter Lindsey Jackson as trustees of the Michael J Field SIPPS (P L Jackson a/c)	60,000 Ordinary	Michael Allen	4,453 Ordinary	Catapult Growth Fund Limited Partnership	75,000 A Ordinary
<b>Shareholder</b>	<b>No. of shares</b>														
Robert Andrew Phillips	50,000 Ordinary														
Intrinsic Equity Limited	65,000 Ordinary														
MJF Pension Trustees Limited and Peter Lindsey Jackson as trustees of the Michael J Field SIPPS (P L Jackson a/c)	60,000 Ordinary														
Michael Allen	4,453 Ordinary														
Catapult Growth Fund Limited Partnership	75,000 A Ordinary														
<b>Directors</b>	Mr Michael Allen Mr James Bruce Grenfell Mr Robert Andrew Phillips														
<b>Accounting reference date</b>	31.08														
<b>Last accounts made up to</b>	The Accounts Date														
<b>Last annual return made up to</b>	24.08.2015														
<b>Auditors</b>	The Auditors														
<b>Bank</b>	Nat West Bank, 75 High Street, Newcastle Under Lyme, Staffordshire ST5 1PN														
<b>Charges</b>	<b>Date registered</b>	<b>Document</b>	<b>Chargee</b>												
	01.10.2009	Debenture	Catapult Growth Partnership Limited												
	18.09.2009	Debenture	Fortis Commercial Finance Limited												
<b>VAT number</b>	977134002														
<b>Tax district and reference number</b>	Cumbernauld 586/KA36501														

## SCHEDULE 3

### Completion

#### 1. ITEMS FOR DELIVERY BY THE SELLERS

The Sellers shall deliver to the Buyer:

- 1.1 duly executed transfers of the Shares in favour of the Buyer (or such other person as the Buyer directs);
- 1.2 the certificates for the Shares (or a duly executed indemnity in the Agreed Form in respect of any missing, lost or destroyed certificates);
- 1.3 such waivers or consents as the Buyer may require to enable full beneficial ownership of the Shares to vest in the Buyer or its nominee and for the Buyer or its nominee to be registered as the holder of the Shares;
- 1.4 a certified copy of any power of attorney under which this Agreement or any document to be delivered to the Buyer pursuant to this schedule 3 has been executed;
- 1.5 the common seal (if any), certificate of incorporation, certificate(s) of incorporation on change of name (if any) and statutory books of the Company (including each register, minute book and other book required to be kept under the Act) made up to the date of Completion;
- 1.6 the written resignation in the Agreed Form of James Grenfell as a director of the Company;
- 1.7 a duly executed MR04 in the Agreed Form evidencing the discharge and release of all security and guarantees of the Company to Catapult Growth Fund Limited Partnership;
- 1.8 evidence in a form satisfactory to the Buyer that all guarantees, bonds and indemnities, securities or Encumbrances given by the Company in respect of the indebtedness, liabilities or obligations of any of the Sellers or any person connected with any of the Sellers have been released;
- 1.9 in relation to each bank account maintained by the Company:
  - 1.9.1 a statement for that account as at the close of business on the Business Day immediately prior to Completion, and a statement reconciling those balances with the cash book of the Company as at Completion;
  - 1.9.2 a copy of the mandate for that account; and
  - 1.9.3 all cheque books in respect of that account;
- 1.10 all credit, debit or other cards in the name of or for the account of the Company in the possession of any person resigning from his office or employment on Completion;
- 1.11 all Companies House web filing service details for the Company, including the relevant sign in e-mail address, security code and company authentication code;
- 1.12 the deeds, certificates, motor vehicle leases and other documents of title to the assets of the Company (other than the Property), including registration certificates and files for applications and oppositions or other registry proceedings in respect of the Company Intellectual Property together with all applicable documentation and information relating to the domain names listed in part 4 of schedule 8;
- 1.13 the leases relating to the Properties;
- 1.14 evidence in a form satisfactory to the Buyer that debts and accounts between the Company and the Sellers or any person connected with any of them have been fully paid;
- 1.15 a letter duly executed on behalf of Artemis Services Limited, varying a consultancy agreement dated 31 March 2015 and made between Artemis Services Limited and the Company.

#### 2. BOARD MEETINGS

The Sellers shall procure that a board meeting of the Company is held at which:

- 2.1 the share transfers referred to in paragraph 1.1 above are approved, subject only to stamping;
- 2.2 such persons as the Buyer may nominate as directors are appointed;
- 2.3 its registered office is changed to One Eleven, Edmund Street, Birmingham B3 2HJ;
- 2.4 its accounting reference date is changed to 31 December; and
- 2.5 existing authorities and instructions to bankers in respect of the operation of the Company's bank accounts are revoked and new authorities and instructions are issued in such terms as the Buyer may require.

#### 3. OBLIGATIONS OF THE BUYER

The Buyer shall:

- 3.1 deliver to the Sellers a duly executed copy of the Disclosure Letter;
- 3.2 deliver to the Sellers a certified copy of board minutes of the Buyer authorising the acquisition of the Shares on the terms of this Agreement and the execution and delivery of this Agreement and any agreements or documents required to be executed and delivered by the Buyer pursuant to the terms of this Agreement;

**SCHEDULE 4**  
**General Warranties**

**1. CAPACITY**

*INTENTIONALLY OMITTED*

**2. OWNERSHIP OF SHARES**

2.1 The Shares are fully paid or credited as fully paid and constitute the whole of the share capital of the Company.

2.2 No Share was allotted at a discount.

2.3 The Sellers are the only legal and beneficial owners of the Shares. There is no Encumbrance on, over or affecting any of the Shares or any unissued shares, debentures or other securities of the Company nor is there any agreement, arrangement or obligation to create or give an Encumbrance in relation to any of the Shares or any unissued shares, debentures or securities of the Company.

2.4 No person has the right (whether exercisable now or in the future and whether contingent or not) to call for the issue, allotment, conversion, redemption, repayment, sale or transfer of any shares, debentures or other securities of the Company.

2.5 None of the Shares was, or represents assets which were the subject of a transfer at an undervalue (within the meaning of Part IX or Part VI Insolvency Act 1986) within the 5 years immediately prior to the date of this Agreement.

2.6 There is no litigation, arbitration, prosecution, administrative or other legal proceedings or dispute in existence or threatened against any of the Sellers or the Company in respect of the Shares or any unissued shares, debentures or securities of the Company or the Sellers' entitlement to dispose of the Shares and so far as the Warrantors are aware there is no fact or circumstance which might give rise to any such proceedings or dispute.

**3. SHARE CAPITAL**

3.1 No shares in the capital of the Company have been issued, nor has any transfer of shares been registered, otherwise than in accordance with the articles of association of the Company in force at the relevant time.

3.2 Each necessary permission for each issue and transfer of shares has been validly obtained and any stamp duty or other tax payable upon such issue or transfer has been paid.

3.3 The Company has not at any time:

3.3.1 purchased or redeemed or agreed to purchase or redeem any shares of any class of its share capital;

3.3.2 otherwise reduced or agreed to reduce its share capital or any class of its share capital; or

3.3.3 issued any shares for a consideration payable otherwise than in cash.

3.4 There are no rights of pre-emption over or restrictions relating to the transfer of the Shares (whether contained in the Company's articles of association or otherwise) which could apply on the sale of the Shares to the Buyer.

**4. THE COMPANY**

**4.1 The Company**

4.1.1 The Company is a limited company incorporated under English law and has been in continuous existence since incorporation.

4.1.2 The Company has not been a subsidiary of any body corporate (wherever incorporated) at any time since its incorporation.

**4.2 Subsidiaries**

4.2.1 The Company has not at any time been, and will not at Completion be, the owner or registered holder of any share, loan capital, interest or equity in, or other security of, any body corporate (wherever incorporated) nor has it agreed to become the owner or registered holder of any such share, loan capital, interest, equity or other security.

4.2.2 The Company has never had a participating interest in any other company or undertaking.

**5. DIRECTORS**

5.1 The only directors of the Company are the persons listed in schedule 2.

5.2 No person is a shadow director of the Company.

**6. COMPANY ADMINISTRATION**

6.1 A true, complete and accurate copy of the memorandum and articles of association of the Company at the date of this Agreement is included in the Disclosure Documents, which memorandum and articles of association contain all documents required to accompany them under section 36 of the Act.

6.2 The Company has at all times carried on its business and affairs in accordance with its constitution (at the relevant time).

6.3 Each register, minute book and other book which the Company is required by law to keep has been properly kept and contains a true, complete and accurate record of the matters which it is required to record. No notice has been received or allegation made that a register or book is incorrect or should be rectified.

6.4 The Company, its directors, officers and employees have all complied with all the provisions of the Act in relation to the activities of the Company, and all returns, particulars, resolutions and other documents required by the provisions of the Act to be delivered on behalf of the Company to the Registrar of Companies or to any other authority, organisation, person or body:

6.4.1 have been properly made, delivered and filed;

6.4.2 were true, complete and accurate; and

6.4.3 were submitted within the relevant time period.

6.5 Neither the Company nor any class of its members has passed any resolution at annual general meetings which was special

business.

- 6.6 There is no written resolution of the Company with a circulation date prior to the date of this Agreement which has not yet been passed by the members or else lapsed in accordance with the Act.
- 6.7 All dividends and distributions declared, made or paid by the Company have been declared, made or paid in accordance with its constitution (at the relevant time), all applicable legislation and any agreement or arrangement made with any third party regulating the payment of dividends and distributions by the Company, true, complete and accurate copies of which agreements or arrangements are included in the Disclosure Documents.
- 6.8 The Company has not given any power of attorney or other authority by which a person may enter into an agreement, arrangement or obligation on the Company's behalf (other than an authority for a director, other officer or employee to enter into an agreement in the normal and ordinary course of his duties).

## 7. **INFORMATION**

The information set out in schedules 1, 2, 7 (other than part 5 of schedule 7) and 8 to this Agreement is true, complete, accurate and not misleading in all respects.

## 8. **ACCOUNTS**

### 8.1 **General**

The Accounts (a true, complete and accurate copy of which is included in the Disclosure Documents):

- 8.1.1 comply with the Act and all other relevant statutes and statutory instruments;
- 8.1.2 have been prepared in accordance with generally accepted accounting principles and practices in the United Kingdom at the date on which the Accounts were approved by the directors;
- 8.1.3 comply with all financial reporting standards adopted or issued by The Accounting Standards Board applicable to a United Kingdom company as at the date on which the Accounts were approved by the directors;
- 8.1.4 have been audited by an auditor or firm of accountants qualified to act as auditors in the United Kingdom and the auditor's report on the Accounts is unqualified;
- 8.1.5 show a true and fair view of the financial position and state of affairs of the Company as at the Accounts Date and of its profit (or loss) and cash flow for the financial period ended on that date;
- 8.1.6 have been prepared on a basis wholly consistent with that used for the preparation of the Company's accounts for the last three financial periods; and
- 8.1.7 have been filed and laid before the Company in general meeting in accordance with the requirements of the Act.

### 8.2 **Tax**

- 8.2.1 Full provision or reserve has been made in the Accounts for all Tax assessed or liable to be assessed on the Company, or for which the Company is accountable, in respect of:
- (a) profits, gains or income earned, arising, accruing or received (or deemed to arise, accrue or to have been earned or received for any purpose);
  - (b) transactions effected or deemed to have been effected; and
  - (c) distributions made or deemed to have been made
- in each case as at the Accounts Date.
- 8.2.2 Full provision has been made in the Accounts for deferred Tax in accordance with generally accepted accounting principles and practices in the United Kingdom.

### 8.3 **Exceptional items**

The results shown by the Accounts were not materially affected by:

- 8.3.1 transactions of a nature not usually undertaken by the Company;
- 8.3.2 transactions or circumstances of an extraordinary, exceptional or non-recurring nature; or
- 8.3.3 charges or credits relating to prior or subsequent financial periods.

### 8.4 **Valuation of stock and long-term contract balances**

In the Accounts:

- 8.4.1 stock (except long-term contract balances) was valued in the same way as in the three preceding financial years and on the basis of the lower of cost or net realisable value based on a physical stock count; and
- 8.4.2 the long-term contract balances were valued in the same way as in the three preceding financial years and on the basis of net cost less foreseeable losses and payments on account.

### 8.5 **Depreciation**

The value of the fixed assets of the Company shown in the Accounts is at cost less depreciation deducted from time to time in a consistent manner and there has been no revaluation of such fixed assets since their acquisition.

### 8.6 **Off balance sheet financing**

The Company has not engaged in any financing (including incurring any borrowing or indebtedness in the nature of acceptances or acceptance credits) of a type which would not be required to be shown or reflected in the Accounts.

### 8.7 **Management reports**

- 8.7.1 There have been no reports concerning the Company by financial or management consultants within the three years ending on the date of this Agreement.
- 8.7.2 There have been no management recommendation letters received by the Company or its board of directors from any

auditor.

## 8.8 Auditor liability limitation agreements

The Company has not at any time entered into a liability limitation agreement (as defined in section 534 of the Act) with its auditors and there is no arrangement or agreement in place to do so.

## 9. MANAGEMENT ACCOUNTS

9.1 The Management Accounts (a true, complete and accurate copy of which is included in the Disclosure Documents):

- 9.1.1 have been prepared with due care and attention;
- 9.1.2 have been prepared in accordance with good management accounting practice on a basis consistent with previous management accounts prepared by the Company;
- 9.1.3 accurately reflect the financial position and state of affairs of the Company as at the Management Accounts Date;
- 9.1.4 fairly reflect the trading and profit of the Company for the period from the Accounts Date to the Management Accounts Date; and
- 9.1.5 are consistent with the accounting records of the Company.

9.2 The results shown by the Management Accounts were not materially affected by:

- 9.2.1 transactions of a nature not usually undertaken by the Company;
- 9.2.2 transactions or circumstances of an extraordinary, exceptional or non-recurring nature;
- 9.2.3 charges or credits relating to any prior or subsequent periods; or
- 9.2.4 any change in the accounting policies or practices from those applied in the preparation of previous management accounts of the Company.

## 10. RECORDS

10.1 The Records:

- 10.1.1 are in the Company's possession;
- 10.1.2 have at all times been fully and properly kept;
- 10.1.3 have at all times been kept in accordance with the law and generally accepted principles, standards and practices relating to all matters recorded in them;
- 10.1.4 are complete and accurate in respect of what should ordinarily be contained in them; and
- 10.1.5 properly record all transactions entered into by the Company.

10.2 None of the Records are recorded, stored, maintained, operated or otherwise dependent upon or held by any means which are not under the exclusive ownership and direct control of the Company.

10.3 No notice or allegation has been received or made that any of the Records are incorrect or should be rectified.

## 11. BUSINESS SINCE THE ACCOUNTS DATE

Since the Accounts Date:

- 11.1 the Company's business has been carried on in the normal and ordinary course without any interruption and substantially in the same manner (including nature and scope) and so as to maintain it as a going concern;
- 11.2 there has been no adverse change in the turnover, the financial or trading position and trading has remained in line with the current year's budget and so far as the Warrantors are aware there is no fact or circumstance which might give rise to any such adverse change;
- 11.3 the Company has not, other than in the normal and ordinary course of its business:
  - 11.3.1 acquired or disposed of, or agreed to acquire or dispose of, any business or asset; or
  - 11.3.2 assumed or incurred, or agreed to assume or incur, a liability, obligation, expense or capital expenditure (whether, in any case, actual or contingent);
- 11.4 none of the fixed assets of the Company shown in the Accounts or acquired by the Company since the Accounts Date has been lost, damaged or destroyed;
- 11.5 the Company has not made, or agreed to make, any material price reductions or allowances or price increases on sales of stock or the provision of its services;
- 11.6 the value of the Company's net assets has not been reduced below that shown in the Accounts;
- 11.7 the Company has not incurred any expense or made any payment otherwise than in the normal and ordinary course of business and all payments received by the Company have been paid into the Company's bank account and appear in the appropriate books of account;
- 11.8 the Company has not borrowed any money which it has not repaid (other than in the normal and ordinary course of its business within limits agreed with the Company's bankers) and no loan to or loan capital of the Company has been repaid, in whole or in part, or has become due and payable or liable (with or without notice or lapse of time or both) to be declared due and payable;
- 11.9 the Company has not been adversely affected by the termination, or a change in the terms, of an important agreement or by the loss of or material reduction in orders from a customer or the loss of or material reduction in any source of supply and so far as the Warrantors are aware without having made external enquiry there is no fact or circumstance which might give rise to any such adverse effects;
- 11.10 the Company has not paid or declared any dividend or other distribution, whether of capital or income;
- 11.11 the Company has not created, allotted, issued or acquired any share or loan capital, or made an agreement or arrangement or undertaken an obligation to do any of those things;
- 11.12 no resolution of the members of the Company (or any class thereof) has been passed; and

11.13 no payments have been made by the Company to or on behalf of any of the Sellers (or any person connected with any of the Sellers) other than the payment of salaries in the normal and ordinary course of business and at the rates set out in the Disclosure Letter.

## 12. ASSETS

12.1 Each asset included in the Accounts or acquired by the Company since the Accounts Date (other than stock disposed of in the normal and ordinary course of business) and each asset used by the Company or which is in the reputed ownership of the Company is:

12.1.1 legally and beneficially owned by the Company free from any Encumbrance;

12.1.2 where capable of possession, in the possession or under the control of the Company; and

12.1.3 situated in the United Kingdom.

12.2 The Company has not sold or transferred or agreed to sell or transfer any of the assets referred to in paragraph 12.1 and the Company has not granted or agreed to grant any Encumbrance on or over any such assets. There has been no exercise or purported exercise of a claim for any Encumbrance on or over any of those assets and there is no dispute directly or indirectly relating to any of those assets.

12.3 None of the assets referred to in paragraph 12.1 has been purchased on terms that title does not pass to the Company until full payment is made by it to the supplier.

12.4 All plant, machinery, vehicles and equipment owned or used by the Company:

12.4.1 are in a good and safe state of repair and condition and are in full working order; and

12.4.2 have been regularly and properly maintained.

12.5 The Company does not make use of any asset which is not included in the Accounts.

12.6 True, complete and accurate copies of all material assets of the Company that are covered by maintenance contracts with independent specialist contractors are included in the Disclosure Documents.

12.7 The asset registers of the Company, true, complete and accurate copies of which are included in the Disclosure Documents, comprise a true, complete and accurate record of all the plant, machinery, vehicles and equipment owned or used by the Company.

## 13. HIRE PURCHASE AND LEASED ASSETS

13.1 A true, complete and accurate list of all the assets (the **Leased Assets**) used by the Company which are subject to a lease or hire, hire purchase, credit sale or conditional sale agreement, together with true, complete and accurate copies of all the contracts, agreements or arrangements to which those assets are subject, is included in the Disclosure Documents.

13.2 So far as the Warrantors are aware, no circumstance has arisen or is likely to arise in relation to any Leased Asset whereby the rental payable has been or is likely to be increased outside of those permitted by the respective lease documentation.

13.3 All payments due under the relevant lease or hire, hire purchase, credit sale or conditional sale agreement in respect of the Leased Assets have been paid on the relevant due dates and such payments are fully up to date.

13.4 There are maintenance contracts with independent specialist contractors in respect of each Leased Asset which the Company is obliged to maintain or repair under the relevant lease or hire, hire purchase, credit sale or conditional sale agreement, true, complete and accurate copies of which contracts are included in the Disclosure Documents.

## 14. STOCK

14.1 The Company's stock (which term shall, in this paragraph 14, include raw materials, components, parts, work in progress, finished and partly finished goods and packaging material consumables) is:

14.1.1 not excessive and is adequate for the normal requirements of its business having regard to current orders and reasonably anticipated orders;

14.1.2 so far as the Warrantors are aware of satisfactory quality and in good condition; and

14.1.3 so far as the Warrantors are aware not damaged, slow moving, obsolete, unusable, or of limited value.

14.2 None of the stock referred to in the Accounts has realised an amount less than the value that was placed on it in the Accounts.

14.3 So far as the Warrantors are aware all items of stock which are stored within containers or in other packaged form are properly labelled or marked and correspond accurately with the descriptions of the stock on such labels or markings or in the stock records to which such labels or markings clearly refer.

14.4 So far as the Warrantors are aware the Company's stock complies with all applicable laws, regulations, standards (including United Kingdom and European Union standards) in which the Company's products are commonly sold.

## 15. DEBTS

15.1 No debt shown in the Accounts or the Company's accounting records is overdue by more than 12 weeks or is the subject of an arrangement not made in the normal and ordinary course of business.

15.2 No debt which was included in the balance sheet to the Accounts or which has arisen since the Accounts Date, has been realised for less than its full face value, has been released, deferred, subordinated or written off or so far as the Warrantors are aware has become irrecoverable in whole or in part.

15.3 A true, complete and accurate list of all debts owed to the Company as at the close of business on the Business Day prior to the date of this Agreement is included in the Disclosure Documents, none of them is subject to dispute, counterclaim or set off nor so far as the Warrantors are aware is there any fact or circumstance which might give rise to any such dispute, counterclaim or set off.

15.4 The Company is not entitled to the benefit of any debt shown in the Accounts or the Company's accounting records otherwise than as the original creditor and is not, and has not agreed to become, a party to any factoring or discounting arrangement in respect of such debts.

15.5 No debt owed to the Company has arisen otherwise than as a result of the supply of goods and/or services by the Company in the normal and ordinary course of its business.

## 16. INTELLECTUAL PROPERTY

### 16.1 Ownership

16.1.1 The Company Intellectual Property is valid and enforceable and so far as the Warrantors are aware nothing has been

done or omitted to be done by which it may cease to be valid.

- 16.1.2 The Company Intellectual Property is legally and beneficially owned by the Company alone, free from any licence, Encumbrance, restriction on use or disclosure obligation or is licensed to the Company, as exclusive licensee, pursuant to an Intellectual Property Agreement.
- 16.1.3 No Intellectual Property in relation to which any third party has any right, title or interest is used in or required for or by the Company's business, save that which is the subject of an Intellectual Property Agreement.
- 16.1.4 All moral rights subsisting in relation to the Company Intellectual Property have been irrevocably and unconditionally waived.
- 16.1.5 The Company has not granted and is not obliged to grant a licence, assignment or other right in respect of any of the Company Intellectual Property.

## 16.2 **Claims and infringements**

- 16.2.1 The Company Intellectual Property is not and so far as the Warrantors are aware will not be, the subject of a claim or opposition from any person (including an employee or former employee of the Company) as to title, validity, enforceability, entitlement or otherwise.
- 16.2.2 There is, and has been, no civil, criminal, arbitration, administrative or other proceeding, including any infringement proceedings, or any other dispute in any jurisdiction concerning any of the Company Intellectual Property to which the Company is or has been a party. No civil, criminal, arbitration, administrative or other proceeding concerning any of the Company Intellectual Property is pending or threatened by or against the Company. So far as the Warrantors are aware no fact or circumstance exists which might give rise to a proceeding of that type.
- 16.2.3 The activities, processes, methods, products or services carried out, used, manufactured, dealt in or supplied on or before the date of this Agreement by the Company:
  - (a) so far as the Warrantors are aware do not involve the unlicensed use of a third party's Intellectual Property or confidential information;
  - (b) so far as the Warrantors are aware do not at the date of this Agreement, nor so far as the Warrantors are aware did they at the time carried out, used, manufactured, dealt in or supplied, infringe the Intellectual Property (including moral rights) of another person; and
  - (c) have not given, and so far as the Warrantors are aware will not give, rise to a claim against the Company or a liability to pay compensation in relation to the Intellectual Property of a third party.
- 16.2.4 So far as the Warrantors are aware no third party has made, is making or is likely to make any unauthorised use of any of the Company Intellectual Property or so far as the Warrantors are aware has infringed or is infringing any Company Intellectual Property.
- 16.2.5 Neither the Company nor so far as the Warrantors are aware any other contracting party to any Intellectual Property Agreement or any other agreement in relation to the Company Intellectual Property is in breach of such agreement.

## 16.3 **Adequacy of Company Intellectual Property**

- 16.3.1 The Company Intellectual Property comprises all the Intellectual Property necessary for the Company to operate its business as carried on at the date of this Agreement.
- 16.3.2 There is no Company Intellectual Property or Intellectual Property Agreement, due to lapse, expire or terminate within the next three calendar years, the loss, termination or expiry of which would cause material adverse effect to the Company.
- 16.3.3 All Company Intellectual Property will either be owned by the Company, or available for use subject to an Intellectual Property Agreement and so far as the Warrantors are aware none of these rights shall be adversely affected by anything contemplated by this Agreement.

## 16.4 **Creation of Intellectual Property**

All Company Intellectual Property created, concerned, developed or discovered by any persons retained, commissioned, employed or otherwise engaged by the Company from time to time is fully vested in the Company and no claim for compensation under section 40 Patents Act 1977 (or otherwise under any analogous or equivalent legislation anywhere in the world) has been made or so far as the Warrantors are aware is likely to be made against the Company in relation to the Company Intellectual Property by any person retained, commissioned, employed or otherwise engaged by the Company from time to time.

## 16.5 **Dealings in and maintenance of Company Intellectual Property**

- 16.5.1 Any use of Company Intellectual Property by any third party is subject to an Intellectual Property Agreement, details of which are set out in the Disclosure Letter and a true, complete and accurate copy of which is included in the Disclosure Documents. The Company has not authorised any use of, or granted any rights under the Company Intellectual Property other than as set out in the Disclosure Letter.
- 16.5.2 Nothing has been done or omitted to be done by the Company which jeopardises the validity, subsistence or enforceability of any Company Intellectual Property or any Intellectual Property Agreement concerning the Company Intellectual Property.
- 16.5.3 All Intellectual Property Agreements concerning the Company Intellectual Property, which are material to the Company's business as at the date of this Agreement are valid and in force (and where applicable have been recorded at the relevant registry). Details of those agreements are set out in the Disclosure Letter and true, complete and accurate copies of them are included in the Disclosure Documents.
- 16.5.4 No Intellectual Property Agreement is one:
  - (a) in respect of any Intellectual Property other than the Company Intellectual Property; or
  - (b) under the terms of which the Company is, or may become, liable to pay a royalty or similar charge.
- 16.5.5 All material documents concerning title to and interest in the Company Intellectual Property (including registration certificates) form part of the records of the Company and will be delivered to the Buyer at Completion.
- 16.5.6 The Company has received no adverse opinion either from its advisors or from any applicable registry in respect of an application for any Company Intellectual Property, the failure to gain registration of which would adversely affect the

Company.

16.5.7 The Company has taken reasonable steps to maintain and protect the Company Intellectual Property.

## 17. **CONFIDENTIAL INFORMATION AND TECHNICAL INFORMATION**

17.1 The Confidential Information and Technical Information is legally, beneficially and solely (but not jointly) owned by the Company, free from any licence, Encumbrance or restriction on use.

17.2 The Confidential Information and Technical Information has at all times been kept strictly confidential by the Company and so far as the Warrantors are aware this confidentiality has not at any time been breached.

17.3 The Company has not disclosed any Confidential Information or Technical Information to any person except where such disclosure was properly made in the normal and ordinary course of the Company's business pursuant to a legally binding confidentiality agreement (the details of which are set out in the Disclosure Letter and a true, complete and accurate copy of which is included in the Disclosure Documents) which requires the recipient to keep such information confidential, to use it only for the purpose for which it was disclosed by the Company and which prevents the recipient from further disclosing it.

## 18. **COMPUTER SYSTEMS**

18.1 The Company is the owner of all elements of the Computer Equipment free from all Encumbrances.

18.2 The functions of the Company's business dependent on the Computer Systems, or in connection with which the Computer Systems are or have been used, are set out in the Disclosure Letter and the Computer Systems have sufficient capacity for the efficient carrying on of the Company's business as at the date of this Agreement.

18.3 Full details of the Computer Equipment and of all Computer Software are set out in the Disclosure Letter and true, complete and accurate copies of all licences, maintenance agreements, escrow agreements and (where the warranties have not expired) development agreements in respect of that Computer Software are included in the Disclosure Documents. The licences of that Computer Software have been complied with in all material respects by the Company and any restrictions in those licences do not adversely affect the present conduct of the Company's business.

18.4 All Intellectual Property in all Computer Software used by the Company (except that which is licensed to the Company as referred to in paragraph 18.3) is owned by the Company.

18.5 Full details of all maintenance and support agreements in place in respect of the Computer Systems are set out in the Disclosure Letter and true, complete and accurate copies are included in the Disclosure Documents. The maintenance and support provided under those agreements has been and remains sufficient for the full uninterrupted use of the Computer Systems.

18.6 The individual components and items which together constitute the Computer Systems are compatible with each other and are not to any material extent redundant.

18.7 The Company's employees at the date of this Agreement include a sufficient number of persons who are sufficiently technically competent and appropriately trained to ensure the proper operation and use of the Computer Systems. The Computer Systems are sufficiently documented to enable their full and proper use without reliance on the special knowledge or memory of any person.

18.8 No third party has any right to prevent the Company from continuing to use the Computer Systems except pursuant to provisions contained in the documents referred to in paragraph 18.3 and no such right has arisen or been purportedly exercised.

18.9 None of the Company's records, systems, controls, data or information are recorded, stored, maintained, operated or otherwise wholly or partly dependent upon or held by any means (including any electronic, mechanical or photographic process whether computerised or not) which (including all means of access to or from such records, systems, controls, data or information) are not under the exclusive ownership and direct control of the Company.

18.10 The Company has a disaster recovery plan in respect of damage to or destruction of some or all of the Computer Systems which is prudent and which is designed to permit all of the critical functions of the Company's business which are run on the Computer Systems to be restored within 24 hours, the balance of functions being restored within 48 hours.

18.11 The Company has prudent procedures in place which are designed to ensure the security of the Computer Systems and data stored on it including by the use of properly administered and run password protection, data encryption, up to date industry standard virus checking software and procedures for taking and storing on site (at least once every 12 hours) and off site (at least once every 24 hours) back up copies of the Computer Software and all data stored on the Computer Equipment.

18.12 The Company is not a party to a facilities management agreement (whether as a provider or a recipient of services) nor is the Company a subscriber to or provider of bureau, out sourcing or similar services.

18.13 In the 12 month period immediately preceding the date of this Agreement, the Company has not suffered any failures or breakdowns of any of the Computer Systems.

18.14 The Company has in its possession or control all executable versions of all Computer Software in both source and object code except that which is licensed to the Company as referred to in paragraph 18.3.

18.15 The Computer Software is able to perform:

18.15.1 all the monetary transactions of the Company's business in euro in addition to sterling; and

18.15.2 any conversion and rounding requirements necessary to give effect to the substitution of sterling by the euro as the currency of the United Kingdom in accordance with all applicable legislation and regulations.

## 19. **CONTRACTS**

19.1 The Disclosure Documents contain true, complete and accurate copies of:

19.1.1 all current or unperformed (in whole or in part) contracts with a cost or value of £100,000 or greater to which the Company is a party, whether or not in the normal and ordinary course of business. For the avoidance of doubt, a contract shall not be unperformed for the purpose of this warranty solely by reference to the fact that any limitation period under any warranty provided by the Company has not expired;

19.1.2 details of all orders with a cost or value of £100,000 or greater received by the Company which are in any respect outstanding.

19.2 No tender, quotation or offer has been made by the Company which is outstanding otherwise than in the normal and ordinary course of business.

19.3 The Company is not a party to or subject to any contract, agreement, transaction or arrangement or subject to any liability which:



- 19.3.1 is of an unusual, onerous or abnormal nature or is not of an entirely arms' length nature;
- 19.3.2 is outside the normal and ordinary course of business;
- 19.3.3 is for a fixed term of more than six months or for an indefinite term incapable of termination in accordance with its terms on not more than 90 days' notice served by the Company at any time;
- 19.3.4 is of a long term nature (that is unlikely to have been fully performed in accordance with its terms within six months of the date on which it was entered into);
- 19.3.5 involves an aggregate outstanding expenditure by the Company of more than £100,000;
- 19.3.6 cannot be readily performed by the Company without undue expenditure or application of money, effort or personnel;
- 19.3.7 constitutes a sale or purchase, option or similar agreement, arrangement or obligation affecting the Company's business or any of its assets (save for the sale of the Company's stock in trade in the ordinary course of the Company's business);
- 19.3.8 is one by which the Company grants or is granted sole or exclusive rights;
- 19.3.9 is a distributorship, agency, franchise or management agreement or arrangement;
- 19.3.10 involves payment by any party by reference to fluctuations in the index of retail prices or any other index or in a currency other than sterling;
- 19.3.11 is for a loan, guarantee, indemnity or suretyship;
- 19.3.12 so far as the Warrantors are aware is of a loss making nature (that is likely to result in a loss to the Company on completion of the Company's obligations);
- 19.3.13 involves, or is likely to involve, the manufacture, sale or supply of goods or the supply of services the aggregate sales value of which will be more than 5% of the Company's turnover for the preceding financial year;
- 19.3.14 so far as the Warrantors are aware has or is likely to have a material effect on the financial or trading position of the Company; or
- 19.3.15 confers or purports to confer a benefit or right on any person who is not a party to the relevant contract, agreement or arrangement.
- 19.4 All the contracts, agreements or arrangements to which the Company is a party and which are not fully discharged by performance are so far as the Warrantors are aware in full force and effect and so far as the Warrantors are aware constitute valid and binding obligations on the parties to such contracts, agreements and arrangements which are enforceable in accordance with their terms.
- 19.5 Neither the Company nor the Warrantors have any knowledge of the invalidity of, or a ground for termination, avoidance or repudiation of, a contract, agreement or arrangement to which the Company is a party. No party with whom the Company has entered into a contract, agreement or arrangement has given notice of its intention to terminate, or so far as the Warrantors are aware has sought to repudiate or disclaim, the contract, agreement or arrangement. The Company has not received written notice of any actual or proposed changes to the prices or other material terms of any contracts, agreements or arrangements to which it is a party.
- 19.6 The contracts, agreements and arrangements entered into by the Company have been duly complied with by the Company, and so far as the Warrantors are aware no party to such a contract, agreement or arrangement is in breach of any such contract, agreement or arrangement and so far as the Warrantors are aware there is no fact or circumstance which might give rise to a such breach by any party to such a contract, agreement or arrangement (other than the Company). No contract, agreement or arrangement to which the Company is a party is the subject of any dispute or claim and so far as the Warrantors are aware there is no fact or circumstance which might give rise to any such dispute or claim.
- 19.7 So far as the Warrantors are aware, there has been no delay, negligence or other default on the part of the Company and no event has occurred which, with the giving of notice or passage of time, could constitute a breach by the Company of any of its obligations under any contract, agreement or arrangement to which it is a party.
- 19.8 So far as the Warrantors are aware none of the other parties to any contract, agreement or arrangement to which the Company is a party is entitled to:
- 19.8.1 exercise any set off or counterclaim; or
- 19.8.2 to delay or withhold payment of any monies falling due under that contract, agreement or arrangement; or
- 19.8.3 to make payment to any party other than the party specified in such contract, agreement or arrangement.
- 19.9 The Company has not been a party to a transaction to which sections 190, 197, 198, 201, 203 or 223 of the Act apply.
- 19.10 The Company has not, within the 5 year period prior to Completion, paid any compensation to a third party agent in accordance with the terms of the Commercial Agents (Council Directive) Regulations 1993, and/or the national implementing legislation of the European Directive relating to Self Employed Commercial Agents (861/653/EE) in other European Union member states. So far as the Warrantors are aware there is no fact or circumstance which might give rise to a claim for such compensation being made against the Company.

## 20. **JOINT VENTURES AND PARTNERSHIPS**

- 20.1 The Company is not, nor has it agreed to become, a member of any joint venture, consortium, European Economic Interest Grouping, partnership or other unincorporated association or a party to any agreement or arrangement for sharing profit, commissions or other income.
- 20.2 The Company is not a member of any partnership, trade association, society or other group, whether formal or informal, and whether or not having a separate legal identity and no such body is relevant to or has any material influence over the Company.

## 21. **TRADING**

### 21.1 **General**

- 21.1.1 The Company does not carry on business under licence or otherwise than as principal.
- 21.1.2 The Company does not use any name for any purpose other than its full corporate name.
- 21.1.3 The Company does not have, and has not conducted any part of its business through, any branch, place of business or agency outside the United Kingdom. The Company does not have any substantial assets outside the United Kingdom.
- 21.1.4 No agent, distributor, representative, supplier or other party (not being an employee) is entitled to any fixed or varying

payment or credit in connection with the Company's business past, present or future.

- 21.1.5 During the year ending on the date of this Agreement no substantial customer or supplier of the Company has:
- (a) stopped, or indicated an intention to stop, trading with or supplying the Company;
  - (b) reduced, or indicated an intention to reduce, its trading with or supplies to the Company; or
  - (c) changed, or indicated an intention to change, the terms on which it is prepared to trade with or supply the Company (other than normal price and quota changes).

## 21.2 Customers

- 21.2.1 No customer (including any person connected with such customer) accounts for more than 5% of the aggregate value of all sales made by the Company in the 12 months ending on the date of this Agreement.
- 21.2.2 Except for a condition or warranty implied by law or contained in its standard terms of business or otherwise given in the normal and ordinary course of business, so far as the Warrantors are aware, the Company has not given a condition or warranty, or made a representation, in respect of goods manufactured or sold (or agreed to be manufactured or sold), or services supplied (or agreed to be supplied), by it nor has the Company accepted an obligation that could give rise to a liability after the goods have been manufactured or sold, or services have been supplied, by it.

## 21.3 Suppliers

- 21.3.1 No supplier (including any person connected with such supplier) accounts for more than 5% of the aggregate value of all purchases made by the Company in the 12 months ending on the date of this Agreement.
- 21.3.2 No amount owing by the Company to a creditor has been due for more than four weeks. A true, complete and accurate list of all creditors of the Company as at the close of business on the Business Day prior to the date of this Agreement is included in the Disclosure Documents.
- 21.3.3 No supplier to the Company is entitled to charge interest in respect of any monies owed to it by the Company. The Company has no liability (whether actual or contingent) for unpaid interest in respect of the late payment of any invoice or other liability paid or settled prior to Completion.

## 22. DEFECTIVE PRODUCTS OR SERVICES

- 22.1 So far as the Warrantors are aware the Company has not manufactured, sold or supplied goods or services:
- 22.1.1 which are or were or will become faulty or defective; or
  - 22.1.2 which do not comply with any warranties or representations expressly or impliedly (whether by statute, common law or otherwise) made by it; or
  - 22.1.3 which do not comply with any applicable regulations, standards and requirements.
- 22.2 Full details of all customer claims, complaints or returns relating to the Company that have occurred during the 12 months ending on the date of this Agreement are contained in the Disclosure Letter. There are no outstanding claims against the Company in respect of defects in quality or delays in delivery or completion of contracts or deficiencies of design or performance of equipment or otherwise relating to liability for goods manufactured, sold or supplied, or services supplied, or to be so manufactured, sold or supplied by the Company and so far as the Warrantors are aware no such claims have been threatened or are anticipated.
- 22.3 The Company has no outstanding liability or obligation where it has admitted a liability or accepted an obligation to service, repair, maintain, take back or otherwise do or not do anything in respect of any goods manufactured, sold or supplied, or services supplied, by the Company.
- 22.4 The Company has not received and is so far as the Warrantors are aware not likely to receive a prohibition notice, a notice to warn or a suspension notice under the Consumer Protection Act 1987.

## 23. DATA PROTECTION AND PRIVACY

- 23.1 The Company has at all times fully complied with, and at the date of this Agreement fully complies with, the Data Protection Legislation including:
- 23.1.1 the data protection principles;
  - 23.1.2 the requirements relating to notification of processing of personal data;
  - 23.1.3 data subject access requests;
  - 23.1.4 the obtaining of appropriate consents for direct marketing; and
  - 23.1.5 the creation and regular maintenance of appropriate suppression lists.
- 23.2 Full details of the Company's registration under the Data Protection Act 1998 are set out in the Disclosure Letter.
- 23.3 No information notice or enforcement notice or other correspondence has been received by the Company from the Information Commissioner or any other competent authority or industry body alleging non-compliance or requiring compliance with the Data Protection Legislation and so far as the Warrantors are aware there is no fact or circumstance that might give rise to the issue of such notices or correspondence.
- 23.4 There is no claim or action, or so far as the Warrantors are aware any fact or circumstance that might give rise to a claim or action, against the Company for non-compliance with the Data Protection Legislation.

## 24. DISTANCE SELLING AND E-COMMERCE

- 24.1 The Company has at all times fully complied with, and at the date of this Agreement fully complies with, the Distance Selling Legislation including:
- 24.1.1 the provisions relating to the provision of information; and
  - 24.1.2 the provisions relating to cancellation periods.
- 24.2 The Company has at all times fully complied with and currently complies with the E-Commerce Legislation including:
- 24.2.1 the provisions relating to the technical steps the customer must follow to conclude the contract; and
  - 24.2.2 the provisions relating to the provision of information.

24.3 No correspondence has been received by the Company from the Competition and Markets Authority (or any predecessor) or any other competent authority or industry body alleging non-compliance or requiring compliance with the Distance Selling Legislation or the E-Commerce Legislation and so far as the Warrantors are aware there is no fact or circumstance that might give rise to such correspondence.

24.4 There is no claim or action, or so far as the Warrantors are aware any fact or circumstance that might give rise to a claim or action, against the Company for non-compliance with the Distance Selling Legislation or the E-Commerce Legislation.

## 25. LITIGATION

25.1 Neither the Company, a Seller, nor so far as the Warrantors are aware a person for whose acts or defaults the Company may be vicariously liable is involved, or has during the five (5) years ending on the date of this Agreement been involved, in a civil, criminal, arbitration, administrative or other proceeding in any jurisdiction. No civil, criminal, arbitration, administrative or other proceeding in any jurisdiction is so far as the Warrantors are aware pending or has been threatened by or against the Company or a person for whose acts or defaults the Company may be vicariously liable.

25.2 There is no fact or circumstance which might give rise to a civil, criminal, arbitration, administrative or other proceeding in any jurisdiction involving the Company or a person for whose acts or defaults the Company may be vicariously liable nor so far as the Warrantors are aware has the Company been concerned or involved in any act, event or omission which may give rise to such matters after the date of this Agreement.

25.3 There is no outstanding judgment, order, decree, arbitral award or decision of a court, tribunal, arbitrator or governmental agency in any jurisdiction against the Company or a person for whose acts or defaults the Company may be vicariously liable.

## 26. COMPLIANCE

### 26.1 General

26.1.1 The Company has at all times carried on its business and used and dealt with its assets in compliance with all applicable legal and administrative requirements, laws and regulations whether of the United Kingdom or elsewhere.

26.1.2 There has been no violation of, or default with respect to, any statute, regulation, directive, order, decree or judgement of any court or any governmental agency of the United Kingdom (or any other country in which the Company conducts business) by the Company.

26.1.3 Neither the Company nor any officer nor so far as the Warrantors are aware any employee of the Company has committed any criminal, illegal or unlawful act or breach of contract or any legislation.

26.1.4 The Company does not carry on (and has not, at any time when not an authorised person under Part III Financial Services and Markets Act 2000, carried on) a regulated activity in the United Kingdom within the meaning of section 22 Financial Services and Markets Act 2000.

26.1.5 The Company is not and has not at any time been engaged in any activity governed by any consumer credit laws.

26.1.6 There is no outstanding liability for any industrial training levy or for any other statutory or governmental levy or charge in relation to the Company or any present or former employees.

### 26.2 Investigations

26.2.1 The Company is not currently, nor has it ever been, the subject of any governmental or other investigation, enquiry or disciplinary proceeding in any jurisdiction, no such investigation, enquiry or proceeding is pending or threatened and so far as the Warrantors are aware there is no fact or circumstance which might give rise to any such investigation, enquiry or proceeding.

26.2.2 So far as the Warrantors are aware no report has been made about the Company and/or its directors or employees to the National Crime Agency.

### 26.3 Unlawful payments

26.3.1 Neither the Sellers, the Company, any person for whose acts or defaults the Company may be vicariously liable nor any associated person of the Company (as defined in section 8 Bribery Act 2010) has:

- (a) induced a person to enter into an agreement or arrangement with the Company by means of an unlawful or immoral payment, contribution, gift, or other inducement;
- (b) offered or made an unlawful or immoral payment, contribution, gift or other inducement to a government official or employee;
- (c) engaged in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010; or
- (d) directly or indirectly made an unlawful contribution to a political activity.

26.3.2 The Company has in place adequate procedures (in accordance with the guidance published by the Secretary of State under section 9 Bribery Act 2010) designed to prevent any associated person (as referred to in paragraph 26.3.1 above) from bribing another person for the Company's benefit.

26.3.3 The Company has not:

- (a) acquired any asset with monies representing the proceeds of crime; or
- (b) at any time received monies representing the proceeds of crime.

26.3.4 The Shares were not purchased or subscribed for by the Sellers with monies representing the proceeds of crime.

### 26.4 Brokerage or commissions

No person is entitled to receive from the Company a finder's fee, brokerage or commission in connection with this Agreement or anything contained in it and the Company is not liable to pay to any of its directors, employees, agents or advisors any sum whatsoever in connection with the sale of the Shares.

## 27. PERMITS

27.1 For the purposes of this paragraph 27, **Permit** shall mean a permit, licence, consent, approval, certificate, qualification, specification, registration or other authorisation, or a filing of a notification, report or assessment, necessary in any jurisdiction for:

27.1.1 the proper and effective operation of the Company's business;

- 27.1.2 the Company's ownership, possession, occupation or use of any of its assets;
- 27.1.3 the manufacture, sale or supply of any goods or services by the Company; or
- 27.1.4 the marketing of such goods or services.
- 27.2 The Company has obtained and so far as the Warrantors are aware complied with the terms and conditions of each Permit, full details of which are set out in the Disclosure Letter and true, complete and accurate copies of which are included in the Disclosure Documents.
- 27.3 Each Permit is in full force and effect and is unconditional or subject only to a condition that has been satisfied (and nothing more remains to be done under the condition). No expenditure or work is or so far as the Warrantors are aware will be necessary to comply with, maintain or obtain a Permit. There is no indication that any Permit might be revoked, suspended, cancelled, varied or not renewed and so far as the Warrantors are aware each action required for the renewal or extension for each Permit has been taken. No Permit and no condition to which any Permit is subject is personal to the Sellers and so far as the Warrantors are aware there is no fact or circumstance which indicates that equivalent Permits (on no less favourable terms) would not be granted to the Company following the acquisition of the Shares by the Buyer.
- 28. HEALTH & SAFETY**
- 28.1 So far as the Warrantors are aware the Company has complied with all of its obligations and duties under all Health & Safety Laws, and so far as the Warrantors are aware the activities of the Company are and have always been carried on in accordance with all relevant Health & Safety Laws.
- 28.2 There are no civil, criminal, arbitration or administrative actions, claims or proceedings pending or threatened against the Company arising from or relating to any Health & Safety Laws and so far as the Warrantors are aware there is no fact or circumstance which might lead to such actions, claims or proceedings.
- 28.3 The Company has not received any communication from any regulatory authority with regard to any alleged breach of Health & Safety Laws and there have been no complaints, investigations, enquiries, requests for information or other formal or informal indications of any possible claims or legal actions in respect of Health & Safety Matters from any person including any neighbour, current or former employee, or regulatory authority.
- 28.4 The Company has not been, and is not currently being, investigated by any person, regulatory body, local authority, court or competent organisation in relation to Health & Safety Matters, and so far as the Warrantors are aware there is no fact or circumstance which could result in the Company being subject to any such investigation.
- 29. ENVIRONMENTAL MATTERS**
- 29.1 The activities of the Company are, and have at all times, been carried on in compliance with all relevant Environmental Laws.
- 29.2 Full details of all Environmental Licences obtained by the Company are set out in the Disclosure Letter, together with all amendments to or variations from such licences. No other Environmental Licences are required by the Company.
- 29.3 All fees payable in relation to any such Environmental Licences have been paid and so far as the Warrantors are aware there has been no default in the observance of the Environmental Licence by the Company, its officers, employees, consultants or agents. No application for an Environmental Licence is pending.
- 29.4 No steps have been taken for the revocation, cancellation, withdrawal, variation or surrender of any Environmental Licence and so far as the Warrantors are aware no fact or circumstance exists which might give rise to any revocation, cancellation, withdrawal, amendment, variation or restriction upon transfer of any Environmental Licence or which would prevent compliance with any of its terms.
- 29.5 The Company has not received any claim, notice, requirement or complaint from any person, regulatory body, court or competent organisation in respect of Environmental Matters which:
- 29.5.1 might prevent the continued use of any part of a Property in the manner and for the purpose for which it is now being used;
- 29.5.2 requires any remedial work to a Property or the clearance or removal from a Property of any Relevant Substance; or
- 29.5.3 alleges any breach of Environmental Laws,
- and so far as the Warrantors are aware there is no fact or circumstance which might give rise to any such claim, notice, requirement or complaint.
- 29.6 There has been no deposit, keeping, tipping, storage, treating, importing, exporting, transporting, processing, manufacture, collection or production of any Relevant Substance at, above, upon, in, under, to or from any Property by the Company.
- 29.7 The Company has received no notice or complaint of leaching or migration of any Relevant Substance into any land adjoining any Property or of any unauthorised emission, release or discharge of any Relevant Substance from any Property.
- 29.8 So far as the Warrantors are aware there is, and has been, no underground storage tank at any Property.
- 29.9 So far as the Warrantors are aware no process or activity has been carried on at any Property by the Company which has caused, will cause or may cause pollution of the environment or harm to human health (in each case within the meaning of the EPA) or will result in a legally enforceable obligation on the Company in respect of such pollution or harm to human health.
- 29.10 So far as the Warrantors are aware no process or activity has been carried on at any Property by the Company which has resulted in any water standing on or running through either any Property or any site adjacent to any Property (whether a natural or man-made watercourse or by percolation).
- 29.11 The Company currently satisfies the conditions attaching to authorisations required under section 6 of the EPA.
- 29.12 No works have been carried out at any Property during the period of the Company's occupation in relation to Environmental Matters by any statutory authority in respect of which such authority is entitled to recover its costs.
- 29.13 The Company does not meet the qualifying criteria for, and is not required to participate in, the CRC Energy Efficiency Scheme established by the CRC Energy Efficiency Scheme Order 2010.
- 30. COMPETITION**
- 30.1 The Company is not nor has it ever been a party to any agreement, arrangement or practice, nor has it engaged in any course of conduct or practice which:

- 30.1.1 has been the subject of any enquiry or investigation under the Fair Trading Act 1973, the Competition Act 1980 or the Enterprise Act 2002 or under any competition or anti-trust law anywhere in the world;
- 30.1.2 so far as the Warrantors are aware infringes or has infringed the Competition Act 1998 or the Enterprise Act 2002 (whether or not it was or is exempted or excluded under the Competition Act 1998);
- 30.1.3 so far as the Warrantors are aware infringes or has infringed Article 101(1) Treaty of the Functioning of the European Union (**TFEU**) (previously Article 81 of the EC Treaty) (whether or not it is or was exempted under Article 101(3) of TFEU (previously Article 81(3) of the EC Treaty)) or Article 102 of TFEU (previously Article 82 of the EC Treaty);
- 30.1.4 so far as the Warrantors are aware infringes or has infringed any competition, anti-trust or restrictive trade practices law, rule or regulation anywhere in the world;
- 30.1.5 is or has been the subject of any measure, including any undertaking or commitment on the part of the Company to, or any requirement, decision or order of, the Restrictive Practices Court, the Competition and Markets Authority (or any predecessor), the Secretary of State for Business, Innovation and Skills (or any predecessor), the European Commission, the Court of Justice of the European Communities or the Competition Appeal Tribunal or to any other competition or regulatory authority, tribunal or court anywhere in the world; or
- 30.1.6 is or has been the subject of any fine or penalty, imposed or threatened to be imposed, for any reason including infringement of any law, regulation, administrative provision or similar matter relating to fair competition, anti-trust, monopolies, mergers or similar matters by the European Commission, the Competition and Markets Authority (or any predecessor) or any authority, court or tribunal of competent jurisdiction of any country having jurisdiction in anti-trust matters.

30.2 Neither the Company nor any of its directors, agents or employees has made any application to the European Commission or any other competition authority for a declaration of inapplicability, for negative clearance, for leniency or for a letter of comfort in respect of any agreement, decision or practice relating to the business of the Company.

30.3 The Company has not received a notice of any breach by it of any competition, anti-trust, anti-restrictive trade practice or consumer protection law, rule or regulation anywhere in the world nor is it, or has it ever been, under or subject to or required or invited to participate in, any investigation, enquiry, report or order by or by reference to any regulatory authority under any such law, rule or regulation.

30.4 The Company is not a party or otherwise bound under the terms of any agreement or arrangement which restricts the Company's freedom to carry on the whole or any part of its business or to use or exploit any of its assets in any part of the world as it thinks fit.

30.5 The Company has not received, nor is it due to receive, any aid granted by a member state of the European Union or through state resources within the meaning of Article 107 of the TFEU (previously article 87(1) of the EC Treaty).

30.6 The Company has not within the last two years been party to any merger, concentration or other similar arrangement which was capable of review by any anti-trust or similar authorities in any jurisdiction.

## 31. **INSURANCE**

31.1 Full, complete and accurate particulars of all insurance and indemnity policies maintained by the Company or in which the Company has an interest (together, the **Policies**), including all endorsements on such Policies, are set out in the Disclosure Letter.

31.2 Each of the Policies is valid and enforceable and is not void or voidable. Neither the Company, nor any director, or so far as the Warrantors are aware any employee or agent of the Company, has done anything or omitted to do anything which might make any of the Policies void or voidable.

31.3 All premiums due in respect of such Policies have been duly and punctually paid and the Company has not done or omitted to do anything which might result in an increase in the premium payable under any of the Policies.

31.4 The Company has not at any time been refused any insurance.

31.5 The Company has never received a report or recommendation from its insurance brokers or other advisors which has not been implemented in full.

31.6 So far as the Warrantors are aware the Company has not failed to disclose to an insurer in relation to any insurance policy any information which such insurer would consider to be material for disclosure.

31.7 There is no claim outstanding under any of the Policies and so far as the Warrantors are aware there is no fact or circumstance which might give rise to such a claim.

31.8 The Company has not acquired any benefit under any policy of insurance otherwise than as original beneficial owner.

## 32. **EMPLOYEES**

### 32.1 **General**

32.1.1 In this paragraph 32 **Employees** shall mean all the employees, workers, officers, consultants and/or agents of the Company.

32.1.2 The Company is not a party to any consultancy contract.

32.1.3 There is no employment contract between the Company and any of its Employees which cannot be terminated by one month's notice or less without giving rise to a claim for damages or compensation (other than a statutory redundancy payment or statutory compensation for unfair dismissal). The Company has not received notice of resignation from any Employee.

32.1.4 There is no employment or consultancy contract or other contract of engagement between the Company and any person which is in suspension or has been terminated but is capable of being revived or enforced or in respect of which the Company has a continuing obligation.

32.1.5 The Disclosure Documents contain details of:

(a) the total number of the Company's Employees including details of those who are on maternity leave or absent because of disability or other long-term leave of absence and (in each case) have or may have a right to return to work with the Company;

(b) the name, date of start of employment, period of continuous employment, salary and other benefits, grade and age of each Employee and, where an Employee has been continuously absent from work for more than one month, the

reason for the absence;

- (c) the terms of the contract of each Employee;
- (d) information of any disciplinary procedure taken against an Employee within the two years ending on the date of this Agreement in; and
- (e) information of any grievance procedure taken by an Employee within the two years ending on the date of this Agreement.

32.1.6 Since the Accounts Date:

- (a) the basis of the remuneration payable to the Employees has not altered and the Company is not obliged to increase, nor has it made provision to increase, the total annual remuneration payable to its Employees; and
- (b) no alterations have been made in the terms of employment or conditions of service of any of the Employees or in the pension or other benefits of any of the Employees or any past officer or employee of the Company or any of their dependants or in the terms of any agreement or arrangement (whether written or unwritten and whether binding or not) with any trade union, employee representative or body of employees or their representatives.

32.1.7 The Company owes no amount to any Employee or former Employee (or his dependant) other than for accrued remuneration or reimbursement of business expenses which, to the extent due, have been paid or discharged in full.

32.1.8 There is no agreement or arrangement between the Company and an Employee or former Employee with respect to his employment, his ceasing to be employed or his retirement which is not included in the written terms of his employment or previous employment. The Company has not provided, or agreed to provide a gratuitous payment, loan or benefit to an Employee or to any of his dependants.

32.1.9 The Company has maintained up-to-date, full and accurate records regarding each of its Employees (including details of terms of employment, payments of statutory sick pay and statutory maternity pay, income tax and social security contributions, disciplinary and health and safety matters and termination of employment).

32.1.10 The Company has not entered into any agreement and no event has occurred which may involve the Company in the future acquiring any undertaking or part of one such that the Transfer of Undertakings (Protection of Employment) Regulations 2006 may apply in relation to such agreement or event.

32.1.11 The Company has not dismissed any person in contemplation of this transaction or in the 12 month period immediately preceding the date of this Agreement.

32.1.12 No outstanding offer of employment has been made by the Company to any person nor has any person accepted an offer of employment made by the Company but not yet commenced such employment.

32.1.13 So far as the Warrantors are aware none of the Employees is disabled for the purposes of the Equality Act 2010.

32.1.14 All of the Employees have the right to work in the UK and so far as the Warrantors are aware the Company has complied with all of its obligations in this regard.

32.1.15 There are no temporary workers within the Company's business. In relation to any temporary workers the details of whom are Disclosed against this warranty, the Company has so far as the Warrantors are aware complied with its obligations pursuant to the Agency Workers Regulations 2010.

32.1.16 So far as the Warrantors are aware the Seller has at all times calculated and paid holiday pay to the Employees correctly in accordance with the Working Time Directive, the Working Time Regulations 1998 and current case law (including *Lock v British Gas Plc* and *Bear Scotland*).

## 32.2 **Payments on termination**

Except as Disclosed in the Accounts, the Company has not:

32.2.1 incurred a liability for breach or termination of an employment contract including a redundancy payment, protective award or compensation for wrongful dismissal, unfair dismissal or failure to comply with an order for the reinstatement or re-engagement of an Employee;

32.2.2 incurred a liability for breach or termination of a consultancy agreement where such liability remains outstanding;

32.2.3 made or agreed to make a payment or provided or agreed to provide a benefit to an Employee or former Employee (or to any of his dependants) or made any other agreement or arrangement in connection with the actual or proposed termination or retirement or suspension of employment or variation of an employment contract; or

32.2.4 so far as the Warrantors are aware incurred a liability in respect of any accident or injury which is not covered by insurance; or

32.2.5 received notice of claim from an Employee or former Employee indicating a potential liability in respect of any of the foregoing.

## 32.3 **Compliance with law**

32.3.1 The Company has complied with:

- (a) each obligation imposed on it by, and each order and award made under, statute, the Treaty of Rome, TFEU, EC Directive, regulation, code of conduct and practice, collective agreement, custom and practice relevant to the relations between it and its Employees or a trade union or the terms of employment of its Employees;

- (b) each recommendation made by the Advisory, Conciliation and Arbitration Service and each award and declaration made by the Central Arbitration Committee;

- (c) the provisions of the Employment Rights Act 1996 in relation to its Employees;

- (d) each obligation under the Working Time Regulations 1998, in particular, as to the hours worked by its Employees and as to its record-keeping obligations; and

- (e) the provisions of the Information and Consultation of Employees Regulations 2004.

32.3.2 There are no enquiries or investigations existing, pending or threatened affecting the Company in relation to any Employee or former Employee by the Equality and Human Rights Commission, the Health and Safety Executive or any

other body with similar functions or powers in relation to workers.

## 32.4 Redundancies and transfer of business

32.4.1 Within the year ending on the date of this Agreement the Company has not:

- (a) given notice of redundancies to the relevant Secretary of State or started consultations with a trade union under Chapter II of Part IV Trade Union and Labour Relations (Consolidation) Act 1992 or failed to comply with its obligations under Chapter II of Part IV of that Act; or
- (b) been a party to a relevant transfer (as defined in the Transfer of Undertakings (Protection of Employment) Regulations 2006) or failed to comply with a duty to inform and consult employee representatives or a trade union under those Regulations.

32.4.2 No Employee is entitled or potentially entitled to any enhanced redundancy payment and/or early retirement benefits, whether on the grounds of redundancy or otherwise.

## 32.5 Trade unions

32.5.1 The Company has no agreement or arrangement with and does not recognise a trade union, works council, staff association or other body representing any of its Employees.

32.5.2 The Company is not involved in, and so far as the Warrantors are aware no fact or circumstance exists which might give rise to, a dispute with a trade union, works council, staff association or other body representing any of its Employees.

32.5.3 The Company has not received any formal request under the Information and Consultation of Employees Regulations 2004.

32.5.4 No collective agreements affect any Employee's terms and conditions of employment.

## 32.6 Incentive schemes

The Company does not have and is not proposing to introduce a share incentive, share option, profit sharing, bonus, commission or other incentive scheme for any of its Employees.

## 32.7 Employment claims

32.7.1 There are no legal or other proceedings between the Company on the one hand and any Employee or former Employee on the other hand nor are any such proceedings pending or threatened.

32.7.2 So far as the Warrantors are aware there is no fact or circumstance which might give rise to any such proceedings referred to in paragraph 32.7.1 above.

32.7.3 No court or Tribunal case, claim or action has been brought by any Employee or former Employee against the Company within the two years ending on the date of this Agreement.

## 33. PENSIONS

In this paragraph 33, the following expressions shall have the following meanings:

### **Disclosed Scheme**

the Pension Scheme and every other arrangement disclosed in the Disclosure Letter in relation to this paragraph 33;

### **Employees**

the Company's employees, directors, former employees and former directors; and

### **Relevant Benefits**

pensions, allowances, lump sums or other benefits payable on or after termination of service, retirement, death, during periods of sickness or incapacity or in similar circumstances.

33.1 Save for under the Disclosed Scheme, the Company does not have any legal, voluntary or moral obligation to pay, contribute towards or meet the cost of any Relevant Benefits for the benefit of or in respect of any person. No proposal, announcement or assurance has been given to any Employee as to the introduction, continuance, increase or improvement of or the payment of a contribution towards any Relevant Benefits.

33.2 Full details of the Disclosed Scheme have been provided to the Buyer including (but not limited to) complete and correct copies of:

33.2.1 all resolutions, policies and other documents establishing, governing or relating to the Disclosed Scheme;

33.2.2 all announcements, member booklets, notices and other explanatory literature issued to members of the Disclosed Scheme and copies of letters or other documents relating to any special arrangements under the Disclosed Scheme for individual members or groups of members; and

33.2.3 a list of all Employees who are members of the Disclosed Scheme together with all of the data and particulars necessary to establish the benefits payable or contingently payable to or in respect of them under the Disclosed Scheme;

as well as details of any proposed changes to any of the information contained in the above documents.

33.3 There is no obligation to provide benefits under or make contributions to the Disclosed Scheme except as revealed in the documents provided to the Buyer and no discretion or power has been or will before Completion be exercised under the Disclosed Scheme to:

33.3.1 augment benefits in respect of any of the Employees;

33.3.2 admit to membership an Employee who would not otherwise have been eligible for membership of the Disclosed Scheme;

33.3.3 provide in respect of a member a benefit which would not otherwise have been provided in respect of such member; or

33.3.4 pay a contribution to the Disclosed Scheme in respect of an Employee which would not otherwise have been paid.

33.4 All death in service and disability benefits (other than refunds of contributions) which may be payable to or in respect of any of the Employees are fully insured under a policy with an insurance company authorised to carry on long-term insurance business under the Financial Services and Markets Act 2000 and all premiums payable in respect of such policies have been paid. So far as the

Warrantors are aware there is no reason why such policies might be invalidated or why the insurance company might seek to avoid liability under them. No special terms including as to premiums have been imposed in relation to that insurance.

- 33.5 All amounts payable by the Company, to or in respect of the Disclosed Scheme have been paid. All employer and employee contributions to the Disclosed Scheme have been made promptly at the time that they were due. The Disclosure Letter sets out the rates at which the Company's and Employees' contributions to the Disclosed Scheme are being paid and how they are calculated.
- 33.6 No employer other than the Company participates in the Disclosed Scheme.
- 33.7 There are no disputes, proceedings, claims or actions in progress, pending or threatened (other than routine claims for benefits) in relation to the Disclosed Scheme or otherwise in relation to the Company's provision (or failure to provide) Relevant Benefits to Employees (including complaints to the Pensions Ombudsman or investigations by the Pensions Regulator) and so far as the Warrantors are aware there are no existing circumstances likely to give rise to any such disputes, proceedings, claims or actions.
- 33.8 The Disclosed Scheme is a money purchase scheme (as defined in section 181(1) of the Pension Schemes Act 1993) and the benefits currently, prospectively and contingently payable under the Disclosed Scheme (other than those which are fully insured) are solely the benefits which can be provided by the funds available in respect of each member under the Disclosed Scheme.
- 33.9 The Disclosed Scheme is a registered pension scheme as defined in section 150(2) of the Finance Act 2004 and so far as the Warrantors are aware there are no circumstances which would give HM Revenue & Customs reason to withdraw such registration.
- 33.10 The Disclosed Scheme does not distinguish between members on grounds of age in the provision of benefits relating to periods of service on or after 1 December 2007 except to the extent that such different treatment falls within one or more of the excepted rules, practices, actions or decisions set out in the Equality (Age Exceptions for Pension Schemes Order) 2010.
- 33.11 The Company and the Disclosed Scheme have not at any time treated an Employee less favourably in the provision of Relevant Benefits or access to the Disclosed Scheme on the grounds of gender, disability, race, sexual orientation, religious belief, marital status, hours of work or fixed-term or temporary agency worker status.
- 33.12 So far as the Warrantors are aware the Disclosed Scheme has at all times been administered in accordance with the provisions of all relevant statutes, regulations and other overriding legal requirements and in accordance with the powers and provisions of the Disclosed Scheme and with due regard to the general requirements of law.
- 33.13 The Company has complied in all material respects with its obligations under the Disclosed Scheme.
- 33.14 The Company has not at any time participated in any occupational pension scheme (as defined in section 1 of the Pension Schemes Act 1993).
- 33.15 The Company is not or has not in the six years prior to Completion been an associate of or connected with (within the meaning of sections 435 and 249 respectively of the Insolvency Act 1986) any person who is an employer in relation to a pension scheme to which sections 38 to 51 of the Pensions Act 2004 apply.
- 33.16 In relation to any Employee whose contract of employment transferred to the Company from another employer in circumstances where the Transfer of Undertakings (Protection of Employment) Regulations 1981 or the Transfer of Undertakings (Protection of Employment) Regulations 2006 applied:
- 33.16.1 the Company has complied with its obligations under sections 257 and 258 of the Pensions Act 2004 and Regulations thereunder; and
- 33.16.2 no such Employee had rights or entitlements under an occupational pension scheme in respect of their employment prior to the transfer other than rights relating solely to benefits for old age, invalidity or survivors (within the meaning of regulation 10(2) of the Transfer of Undertakings (Protection of Employment) Regulations 2006.
- 33.17 The Company has at all times complied with its obligations under Part I of the Welfare Reform and Pensions Act 1999 including (but not limited to), prior 1 October 2012, providing access to a designated stakeholder pension scheme.
- 33.18 The Company has complied with its automatic enrolment obligations as required by the Pensions Act 2008 and associated legislation. No notices, fines or other sanctions have been issued by the Pensions Regulator and no instances of non-compliance with the automatic enrolment obligations have been notified to the Pensions Regulator in respect of the Company. Full details of this compliance are set out in the Disclosure Letter, including (but not limited to):
- 33.18.1 any documents relating to the Company's staging date;
- 33.18.2 copies of any correspondence between the Company and the Pensions Regulator regarding auto-enrolment, including details of its registration in accordance with regulation 3 of the Employers' Duties (Registration and Compliance) Regulations 2010;
- 33.18.3 copies of any records kept in accordance with regulations 5-8 of The Employers' Duties (Registration and Compliance) Regulations 2010 in respect of the Employees;
- 33.18.4 if a personal pension scheme was used as a "qualifying scheme", copies of any agreements between the provider and the jobholder under section 26 of the Pensions Act 2008;
- 33.18.5 details of any Employees who have opted out and copies of any opt-out letters in respect of those employees; and
- 33.18.6 a copy of any certification under section 28 of the Pensions Act 2008.

## 34. FINANCIAL FACILITIES

### 34.1 Bank accounts

- 34.1.1 The Disclosure Letter sets out full details of all investment, deposit and bank accounts maintained by or on behalf of the Company and of the banks or other financial institutions at which those accounts are kept.
- 34.1.2 A statement of the credit or debit balances on each of the accounts referred to in paragraph 34.1.1 as at a date not more than two Business Days prior to the date of this Agreement is included in the Disclosure Documents, together with statements showing and reconciling those statements with the cash book balances of the Company at the date of this Agreement. Since such statements there have been no payments out of any such accounts except for routine payments in the normal and ordinary course of business.

### 34.2 Borrowings

- 34.2.1 Full details of all overdrafts, loans or other financial facilities outstanding or available to the Company are set out in the Disclosure Letter, whether or not such facilities are of a type which would be required to be shown in or reflected in the



Accounts (including any indebtedness for moneys borrowed or raised under any acceptance credit, bond, note, bill of exchange or commercial paper, finance, lease, hire purchase agreement, trade bills (other than those on terms normally obtained) forward sale or purchase agreement or conditional sale agreement or other transaction having the commercial effect of a borrowing) and true, complete and accurate copies of all documents relating to such matters are included in the Disclosure Documents.

34.2.2 So far as the Warrantors are aware neither the Sellers nor the Company has done anything whereby the continuance in full force and effect of the facilities referred to in paragraphs 34.1.1 and 34.2.1 might be affected or prejudiced.

34.2.3 The total amount borrowed by the Company does not exceed any limitations on the borrowing powers of the Company contained in:

(a) the Company's constitution; or

(b) any debenture or other deed or document binding on the Company.

34.2.4 The Company has not incurred any indebtedness other than in the normal and ordinary course of business.

34.2.5 The Company does not have outstanding, nor has it agreed to create or issue, any loan capital.

### 34.3 **Guarantees, indemnities and Encumbrances**

34.3.1 The Company is not a party to and is not liable (including contingently) under a guarantee, indemnity or other agreement to secure or incur a financial or other obligation with respect to another person's obligation.

34.3.2 No part of the loan capital, borrowing or indebtedness in the nature of borrowing of the Company is dependent on the guarantee or indemnity of, or security provided by, another person.

34.3.3 The Company does not have outstanding any Encumbrance or any obligation (including a conditional obligation) to create any Encumbrance.

### 34.4 **Events of default**

34.4.1 No event has occurred or been alleged which:

(a) constitutes an event of default, or otherwise gives rise to an obligation to repay, under an agreement relating to borrowing or indebtedness in the nature of borrowing (or will do so with the giving of notice or lapse of time or both); or

(b) will lead to an Encumbrance constituted or created in connection with borrowing or indebtedness in the nature of borrowing, a guarantee, an indemnity or other obligation of the Company becoming enforceable (or will do so with the giving of notice or lapse of time or both),

and so far as the Warrantors are aware there is no fact or circumstance which might give rise to any such obligation to repay or to any such Encumbrance becoming enforceable.

34.4.2 The Company has not repaid any sum in the nature of borrowings in advance of any due date.

### 34.5 **Loans**

The Company has not made a loan which remains outstanding.

### 34.6 **Grants**

The Company is not liable to repay an investment or other grant or subsidy made to it by a body (including the Department of Business, Innovation and Skills or any predecessor). So far as the Warrantors are aware no fact or circumstance (including the execution and performance of this Agreement) exists which might entitle a body to require repayment of, or refuse an application by the Company for, the whole or part of a grant or subsidy.

## 35. **INSOLVENCY**

35.1 No order or application has been made or resolution passed for the winding up of the Company or for the appointment of a provisional liquidator to the Company.

35.2 No petition has been presented and no application has been made to court for an administration order in respect of the Company and no notice of an intention to appoint an administrator of the Company has been given or filed.

35.3 No receiver or receiver and manager has been appointed of the whole or part of the Company's business or assets.

35.4 No voluntary arrangement has been proposed under section 1 Insolvency Act 1986 in respect of the Company. No compromise or arrangement has been proposed, agreed to or sanctioned under part 26 of the Act in respect of the Company.

35.5 The Company is not insolvent or unable to pay its debts within the meaning of section 123 Insolvency Act 1986. The Company has not stopped paying its debts as they fall due.

35.6 No distress, execution or other process has been levied on an asset of the Company.

35.7 There is no unsatisfied judgment or court order outstanding against the Company.

35.8 None of the Company's assets have been the subject of a transaction at an undervalue within the meaning of Part IX or Part VI Insolvency Act 1986.

35.9 No action is being taken by the Registrar of Companies to strike the Company off the register.

35.10 The Company has not suffered any equivalent or analogous proceedings or orders to any of those described above in this paragraph 35 under the law of any other jurisdiction.

## 36. **EFFECT OF SALE**

Neither the execution and delivery nor the performance of this Agreement or of a document or agreement entered into pursuant to this Agreement or of any obligation under it will:

36.1 conflict with or constitute or result in a breach of or default under or require the consent of a person under:

36.1.1 any governmental, public or contractual obligation which is binding upon the Company or any Seller, including the provisions of any Encumbrance to which the Company or any Seller is a party or by which any of the Shares or the Company's assets are bound or subject;

- 36.1.2 any court order, judgment, decree, award or injunction which is binding upon the Company or any Seller or by which any of the Shares or the Company's assets are bound or subject; or
- 36.1.3 an agreement, arrangement or obligation to which the Company or any Seller is a party or a legal or administrative requirement in relation to the Company or any Seller in any jurisdiction;
- 36.2 result in the Company losing the benefit of an asset, licence, grant, subsidy, right or privilege which it enjoys at the date of this Agreement in any jurisdiction;
- 36.3 relieve any person from any obligation under any contract, agreement or arrangement to which the Company is a party or entitle any person to terminate any such obligation or any right or benefit enjoyed by the Company under any such contract, agreement or arrangement;
- 36.4 result in the creation, imposition, crystallisation or the enforcement of any Encumbrance on or over any of the Company's assets; or
- 36.5 make the Company liable to offer for sale, transfer or otherwise dispose of or purchase or otherwise acquire any assets, including shares held by it in other bodies corporate under their articles of association or any agreement or arrangement.
37. **INSIDER AGREEMENTS**
- 37.1 The business of the Company is not carried on by or for the benefit of any person other than the Company.
- 37.2 None of the Warrantors nor any person connected with any of the Warrantors is, or has at any time in the five years prior to the date of this Agreement, been involved, engaged or interested in any other company or business which in any way overlaps or competes with, or is likely to compete with, or has in any way affected the trading results and performance of the Company.
- 37.3 There is, and during the three years ending on the date of this Agreement there has been, no agreement or arrangement (legally enforceable or not) affecting the Company to which a Seller is or was a party and in which a Seller, a director or former director of the Company or a person connected with any of them is or was interested in any way, other than a bona fide contract of employment made between the Company and a Seller or a director or former director of the Company in the normal and ordinary course of business.
- 37.4 There is no amount owing by the Company to any Seller, director or former director of the Company (or any person connected with any such Seller, director or former director) nor does any Seller, director or former director of the Company (or any person connected with any such Seller, director or former director) have any claims against the Company on any account whatsoever including claims for compensation for loss of office, unfair dismissal or redundancy.
- 37.5 There is no amount owing to the Company from any Seller, director or former director of the Company (or any person connected with any such Seller, director or former director) nor does the Company have any claims against any Seller, director or former director of the Company (or any person connected with any such Seller, director or former director) on any account whatsoever.
38. **LOCKED BOX**
- 38.1 Save for Permitted Payments, since the Completion Accounts Date:
- 38.1.1 no transfers of value outside the ordinary course of business (including, without limitation, dividends, distributions, returns of capital and any acquisition or disposal of assets) have been made to or on behalf of any of the Sellers (or any person connected with a Seller) by the Company;
- 38.1.2 no debt or other amount owing to the Company by any of the Sellers (or any person connected with a Seller) has been waived, forgiven or otherwise released (in whole or in part); and
- 38.1.3 no indemnity or waiver or discharge of any liability has been granted by the Company in favour of any of the Sellers (or any person connected with a Seller).
- 38.2 The Company has not entered into any agreement or arrangement with any of the Sellers (or any person connected with a Seller) in connection with any of the matters referred to in paragraph 38.1 of this schedule.

## SCHEDULE 5

### Limitations on Sellers' liability

#### 1. FINANCIAL LIMITS

- 1.1 The Warrantors shall not be liable in respect of a Claim unless the amount that would otherwise be recoverable from the Warrantors (but for this paragraph 1.1) in respect of that Claim exceeds £10,000.
- 1.2 The Warrantors shall not be liable in respect of a Claim unless and until the amount that would otherwise (but for this paragraph 1.2) be recoverable from the Warrantors in respect of that Claim when aggregated with any other amount or amounts recoverable in respect of all other Claims (excluding any amounts in respect of a Claim for which the Warrantors have no liability by virtue of paragraph 1.1 above) exceeds £100,000, in which event the Warrantors shall be liable for the whole of such amount and not merely the excess.
- 1.3 The aggregate liability of the Warrantors for all Claims and any Tax Claims shall not exceed £125,000 and the liability of each Warrantor shall not exceed the consideration receivable by him.
- 1.4 The liability of MJF Pension Trustees Limited (and its officers and directors) shall be limited to the value of the assets of the Michael J Field SIPPS (P L Jackson a/c) from time to time and will cease immediately should Peter Lindsey Jackson cease to be a member of the Michael J Field SIPPS.
- 1.5 The aggregate liability of each Seller for any claim under clause 6.10 of this Agreement shall not exceed the consideration received by that Seller.

#### 2. TIME LIMITS

- 2.1 The Warrantors shall not be liable for a Claim (other than under clause 6.10 of this Agreement) unless the Buyer gives the Sellers' Representative written notice summarising the nature of the Claim (insofar as it is known to the Buyer) and as far as is reasonably practicable an estimate of the amount claimed:
- 2.1.1 in the case of a Claim for breach of any of the Warranties in part 3 of schedule 6 within a period of seven years of Completion; or
- 2.1.2 in the case of any other Claim or claim pursuant to paragraph 38 of paragraph 4, on or before the second anniversary of Completion.
- 2.2 The Sellers (including without limitation the Warrantors) shall not be liable for a claim under clause 6.10 of this Agreement unless the Buyer gives the Sellers' Representative written notice summarising the nature of the claim (insofar as it is known to the Buyer) and as far as is reasonably practicable an estimate of the amount claimed within a period of six years of Completion.
- 2.3 A Claim notified in accordance with paragraph 2.1 or 2.2, which is not previously satisfied, settled or withdrawn, shall be deemed to have been withdrawn and waived in full by the Buyer unless proceedings in respect of that Claim have been both issued and served on the Sellers' Representative within the period of 12 months starting on the day such claim was notified to the Sellers' Representative.

#### 3. NO DOUBLE CLAIM

The Buyer is not entitled to recover damages or otherwise obtain payment, reimbursement or restitution (whether under the Warranties, Tax Covenant or otherwise) more than once in respect of the same liability or loss.

#### 4. DUTY TO MITIGATE

Nothing in this Agreement restricts or limits the Buyer's general obligation at law to mitigate any loss or damage which it may incur in consequence of a matter giving rise to a Claim.

#### 5. FRAUD

Notwithstanding any other provision of this Agreement, nothing in this schedule 5 or any other provision of this Agreement shall apply to exclude or limit the liability of the Warrantors to the extent that a Claim arises or is increased by reason of (or the delay in discovery of which results from) any fraud or fraudulent misrepresentation or dishonest or wilful misconduct by or on behalf of the Warrantors.

#### 6. PROVISION MADE IN COMPLETION ACCOUNTS

The Warrantors shall have no liability in respect of any Claim if and to the extent that any allowance, provision or reserve was made in the Accounts or Completion Accounts in respect of the matter or circumstances giving rise to the Claim.

#### 7. RECOVERY FROM THIRD PARTIES

- 7.1 In the event that the Buyer or the Company is at any time entitled to recover or otherwise claim reimbursement from a third party in respect of any matter or circumstance giving rise to a Claim the following provisions shall apply:
- 7.1.1 the liability of the Warrantors in respect of the related Claim shall be reduced by the amount (if any) actually recovered from the relevant third party (less all reasonable costs, charges and expenses incurred by the Buyer or the Company in recovering that sum), or extinguished if the amount recovered exceeds the amount of the relevant Claim; and
- 7.1.2 if the Warrantors make a payment to the Buyer in respect of a Claim and the Buyer or the Company subsequently recovers from a third party a sum which is referable to that Claim, the Buyer shall promptly repay to the Warrantors the lower of:
- (a) the amount recovered from such third party (less all reasonable costs, charges and expenses incurred by the Buyer or the Company in recovering that sum); and
- (b) the amount paid to the Buyer by the Warrantors in respect of the relevant Claim.
- 7.2 If any amount is repaid to the Warrantors in accordance with paragraph 7.1.2, the amount so repaid shall be deemed to have never been paid by the Warrantors to the Buyer.
- 7.3 The Buyer will and will procure that the Company will:
- 7.3.1 use all commercially reasonable good faith efforts to seek reimbursement from insurance providers and/or third parties before making any claim; and

7.3.2 not intentionally or voluntarily take or neglect to take action to the extent same would be outside the normal course of business, for the purpose of creating a Claim.

## 8. **CHANGE IN LAW**

The Warrantors shall not be liable in respect of any Claim to the extent that it arises, or its value is increased, as a result of a change in any law, legislation, rule or regulation (including any new law, legislation, rule or regulation) that comes into force or otherwise takes effect after the date of this Agreement.

## 9. **VOLUNTARY ACTS**

The Warrantors shall not be liable in respect of any Claim to the extent that the matter or circumstance giving rise to such Claim arises, occurs or is otherwise attributable to, or the Warrantors' liability pursuant to such Claim is increased as a result of:

9.1 any voluntary act, omission, transaction or arrangement of the Buyer or the Company (or its directors, employees or agents in each case other than the Warrantors themselves) on or after Completion except where such act, transaction, omission or arrangement was:

9.1.1 carried out or effected pursuant to a legally binding obligation entered into on or before the date of this Agreement; or

9.1.2 in the ordinary course of business of the Company as carried on at Completion; or

9.2 any voluntary act, omission, transaction or arrangement carried out at the request or with the consent of the Buyer before Completion; or

9.3 any change in the accounting bases, policies, practices or methods applied in preparing any accounts or valuing any assets or liabilities of the Company introduced or having effect after Completion (other than to the extent necessary to comply with the law or UK GAAP applying and in force on or prior to Completion).

## 10. **CONDUCT OF THIRD PARTY CLAIMS**

10.1 The provisions of this paragraph 10 shall apply in the event that any third party brings or makes (or threatens to bring or make) any claim, demand, action or proceedings against any of the Buyer or the Company which may reasonably be considered likely to give rise to a Claim (a **Third Party Claim**).

10.2 In the event of a Third Party Claim, the Buyer shall:

10.2.1 as soon as reasonably practicable give written notice of the Third Party Claim to the Warrantors, specifying the nature of the Third Party Claim;

10.2.2 keep the Warrantors informed of the progress of, and all material developments in relation to, the Third Party Claim;

10.2.3 provide the Warrantors (at their cost) with copies of all material information and correspondence relating to the Third Party Claim; and

10.2.4 give (and cause each member of the Buyer's Group to give) the Warrantors and their professional advisers access at reasonable times (and on reasonable prior notice) to its premises and personnel, and to any relevant assets, accounts, documents or records within its control, for the purposes of enabling the Warrantors to assess the Third Party Claim and to exercise their rights under this paragraph 10.2.

## 11. **NO SET-OFF**

The Buyer shall not have any right of set-off (howsoever arising) in respect of any Claim or claim under the Tax Covenant and all sums payable by the Buyer to the Sellers under this Agreement shall be paid in full without set-off, counterclaim or other deduction.

## 12. **NO RESCISSION**

The Buyer agrees that rescission shall not be available as a remedy for any breach of this Agreement and the Buyer shall not be entitled to rescind or terminate this Agreement.

## SCHEDULE 6

### Taxation

#### Part 1– Definitions and interpretation

#### 1. DEFINITIONS

In this schedule, in addition to the words and expressions defined in clause 1.1, the following definitions shall apply:

##### **Accounts Relief**

any Relief which was:

- (a) treated as an asset of the Company in the Completion Accounts; or
- (b) taken into account in computing (and so reducing or eliminating) any provision for deferred tax which appears in the Completion Accounts or which but for such Relief would have appeared in the Completion Accounts;

and for this purpose Accounts Relief shall include any Relief, which the Company has assumed is available to it and has been utilised in the Completion Accounts whether or not at the time of such utilisation the Company was actually entitled to any such Relief;

##### **Assessment for Tax**

any assessment notice demand letter or other document issued or action taken by or on behalf of any person, authority or body or the submission of any form, return or computation relating to Tax from which it appears that the Warrantors are or may be subject to a Tax Claim;

##### **Auditors**

the auditors or, in the absence of auditors, the accountants for the time being of the Company;

##### **Buyer's Tax Group**

the Buyer and any other company or companies (other than the Company) which are at any time treated as members of the same group as, or otherwise connected or associated with, the Buyer for any Tax purposes;

##### **CTIP**

the Corporation Tax (Instalment Payment) Regulations 1998 (SI 1998/3175);

##### **Event**

any act, transaction omission or change in circumstance (whether or not the Company is a party to such act, transaction or omission) and includes (without limitation) the sale and purchase of the Shares pursuant to this Agreement, any change in the residence of any person for the purposes of Tax, the death or dissolution of any person, the expiry of any time period, membership of or ceasing to be a member of any group or partnership, the accrual or receipt of any income, profit or gains, the declaration or payment of any dividend or other distribution, failure to distribute, any transfer, payment, loan or advance, the incurring of any loss or expenditure or any other event which is treated or is otherwise regarded as having occurred for the purposes of Tax;

##### **Group Relief**

any relief surrendered or claimed or capable of being surrendered or claimed pursuant to part 5 CTA 2010 or pursuant to any other legislation available for use between members of the same group of companies for Tax purposes;

##### **income, profits or gains**

shall include income, profits or gains (including capital gains) of any description or from any source and income, profits, or gains which are deemed to be earned accrued or received for any Tax purpose;

##### **Loss**

in relation to a Relief, the reduction, modification, loss, clawback, counter-action, disallowance, cancellation, non-availability or non existence (in whole or in part) of that Relief or right to repayment of Tax or a failure to obtain Accounts Relief or to receive the benefit of a right to repayment of Tax to which the Company was or assumed it was entitled and Lost shall be construed accordingly;

##### **New Relief**

any Relief which arises after the Completion Accounts Date in the ordinary course of business, any Relief which arises after Completion and any Relief at any time to the Buyer or any member of the Buyer's Tax Group;

##### **PAYE**

the mechanism prescribed by Tax Legislation for the charge, collection, assessment, recovery and making of deductions from or in respect of the following:

- (a) sums to which part 11 of ITEPA 2003 and regulations under section 684 of ITEPA 2003 apply, and
- (b) Class 1, Class 1A and Class 1B contributions referred to in section 1(2) of the Social Security Contributions and Benefits Act 1992;

##### **Relief**

any loss, relief, allowance, exemption, set-off, deduction, credit, or relief from or against or available in respect of Tax or in the computation of income profits or gains for the purposes of Tax or any right to a repayment of Tax including any repayment supplement;

##### **SDLT**

stamp duty land tax;

**SDRT**

stamp duty reserve tax;

**Tax**

all forms of tax, duty, impost, levy, withholding, deduction, governmental charge (whether national or local) in the nature of tax (but for the avoidance of doubt excludes uniform business rates, water rates, community charge and council tax) whenever created enacted or imposed and whether of the United Kingdom or elsewhere and any amount payable to any person or Tax Authority as a result of any enactment relating to Tax together with all related penalties, fines, charges, surcharges, costs and interest including (without limitation) fines, charges, surcharges, costs and interest relating to a failure to provide any return or information or register for the purpose of any such Tax;

**Tax Authority**

HM Revenue and Customs or any other governmental, statutory, state, regional, provincial or local government authority body or official (whether within or outside the United Kingdom) involved in the assessment, collection or administration of Tax (and any predecessor to such authority or body);

**Tax Claim**

any claim under the Tax Covenant or for breach of any of the Tax Warranties;

**Tax Legislation**

any primary or secondary statute, instrument, enactment, order, law, by-law or regulation making any provision for or in relation to Tax;

**Tax Liability**

any liability to make an actual payment of or an amount in respect of Tax, whether or not such liability is also or alternatively a liability of or chargeable against or attributable to, any other person and whether or not the Company shall or may have a right of recovery or reimbursement against any other person;

**Tax Saving**

the reduction in any actual liability of the Company in respect of corporation tax (for which the Warrantors would not have otherwise been liable under this Tax Covenant) through the use of a Relief arising solely as a result of a Tax Liability in respect of which the Warrantors have made payment in full under this Tax Covenant;

**VAT Regulations**

the Value Added Tax Regulations 1995 (SI 1995/2518).

**2. INTERPRETATION**

- 2.1 Reference to the result of any Event or Events on or before Completion includes the combined result or results of any two or more Events the first or some or part of which took place on or before Completion provided that at least one Event which takes place before Completion occurs outside the ordinary course of business of the Company as carried on at Completion and the Event or Events which take place after Completion occur inside the ordinary course of business of the Company as carried on at Completion or pursuant to a legally binding obligation of the Company incurred prior to Completion.
- 2.2 For the purposes of this Agreement, where any document is not (or is not properly) stamped, the stamp duty (together with any accrued interest and/or penalties) required to be paid in order that such document be fully and properly stamped shall, notwithstanding that the Company may be under no legal obligation to stamp that document, be treated as a liability of the Company arising on the date when the document was executed and "Tax Liability" shall be construed accordingly.
- 2.3 Abbreviated references to Acts in this agreement have the meaning given to them by section 1174 of the CTA 2010 or section 1312 CTA 2009.
- 2.4 Without limiting the generality of the expression, reference in this schedule to anything "in the ordinary course of business" does not include:
- 2.4.1 an Event which results in the Company becoming liable for Tax for which it is not primarily liable;
  - 2.4.2 the acquisition, disposal or supply or deemed acquisition, disposal or supply of any asset, goods, service or facility (including a loan of money or the letting, hiring or licensing of tangible property) in a transaction which is not entered into at arm's length;
  - 2.4.3 the making of a distribution or deemed distribution for Tax purposes;
  - 2.4.4 the creation, cancellation or reorganisation of any share or loan capital or any company becoming or ceasing to be a member of a group of companies for any Tax purpose other than any Events envisaged by this agreement;
  - 2.4.5 the failure by the Company to deduct, charge, recover or account for Tax;
  - 2.4.6 an Event giving rise to a liability or potential liability under Part XVII ICTA (tax avoidance), section 29 or section 36 TMA 1970, schedule 9A VATA 1994 (anti-avoidance provisions; groups) or Part V of schedule 18 FA 1998 (Revenue determinations and assessments) or schedule 28AA ICTA (provision not at arm's length) or Part 4 of TIOPA 2010 (Transfer pricing);
  - 2.4.7 a transaction or arrangement which includes, or a series of transactions or arrangements which includes, any step or steps having no commercial or business purpose apart from the avoidance of a liability to Tax; and
  - 2.4.8 any failure to pay any Tax Liability arising before Completion, to the extent that such failure give rise to any interest, fine, penalty, charge or surcharge in connection with that Tax Liability.

**Part 2 – Tax Covenant****1. WARRANTORS' COVENANT**

- 1.1 Subject as provided in this schedule, the Warrantors hereby jointly and severally covenant with the Buyer to pay to the Buyer an amount equal to:
- 1.1.1 any Tax Liability of the Company which has arisen or arises as a consequence of or in connection with any Event which

occurred on or before Completion;

- 1.1.2 any Tax Liability of the Company which would have arisen (and in respect of which the Warrantors would have been liable under this schedule) but for the setting-off of an Accounts Relief or a New Relief against that Tax Liability or (as the case may be) against the income, profits or gains which would have given rise to that Tax Liability;
- 1.1.3 any Accounts Relief Lost or (where the Accounts Relief Lost was a deduction from or set-off against income, profits or gains) the Tax which would (on the basis of the rates of Tax current at the date of the Loss and assuming that the Company would have been able to utilise fully that Accounts Relief) have been saved but for the Loss;
- 1.1.4 any liability of the Company to make a payment (or to surrender a Relief) under any indemnity, covenant, agreement, guarantee or charge entered into by the Company on or before Completion and pursuant to which the Company has agreed to pay an amount in respect of (or surrender a Relief to reduce or extinguish) any Tax Liability of any other person in which case the Tax Liability shall be the amount of such payment (or the value of the Relief as the case may be);
- 1.1.5 any Tax Liability of the Company which has arisen or arises as a consequence of or in connection with any Event which occurred on or before Completion and as a result of any person (other than the Company) failing to discharge or pay any liability for Tax;
- 1.1.6 any Tax Liability whenever arising, including liability for payments in respect of Tax, which arises solely as a result of the relationship (before Completion) for Tax purposes of the Company with any person other than a member of the Buyer's Tax Group;
- 1.1.7 any Tax Liability of the Company or the Buyer in respect of Inheritance Tax which:
  - (a) is at, or becomes after, Completion as a result of a transfer of value (or deemed transfer of value) on or before Completion, a charge on any of the shares or assets of the Company or gives rise to a power to sell, mortgage or charge any of the shares or assets of the Company; or
  - (b) arises as a result of a transfer of value occurring or being deemed to occur on or before Completion (whether or not in conjunction with the death of any person whenever occurring) which increased or decreased the value of the estate of the Company;
- 1.1.8 any Tax Liability which arises at any time and requires the Company to account for income tax or national insurance contributions in respect of any option or other right to acquire securities granted on or before Completion by the relevant group member or any other person or in respect of the exercise of such option or right or in respect of any employment-related securities (as defined for the purposes of part 7 ITEPA 2003) acquired whether or not as a result of the exercise of such a right or option or the sale of such employment related securities;
- 1.1.9 any Tax Liability of the Company arising in connection with or by reference to Part 7A of ITEPA 2003 (introduced by the Finance Act 2011 with effect from 6 April 2011) including any liability arising at any time as a consequence of or in respect of or by reference to any payments or loans made to, any assets made available or transferred to, or any assets earmarked, however informally, for the benefit of, any employee or former employee of the Company or any Subsidiary, or for the benefit of any relevant person, by an employee benefit trust or another third party where the arrangement giving rise to the charge was entered into at a time when the third party was acting on the instructions of, or for the benefit of, the Warrantors or an associate of any of the Warrantors;
- 1.1.10 any Tax Liability of the Company arising in connection with or related to underpayments of PAYE in connection with any pension scheme contributions of, or on behalf of, the Company's employees which occurred on or before Completion;
- 1.1.11 any Tax Liability of the Company arising in connection with or by reference to any payments to the Warrantors under this agreement (other than Permitted Payments);
- 1.1.12 any costs and expenses properly incurred by the Buyer and/or the Company in connection with:
  - (a) any liability or amount for which the Warrantors are liable under any of paragraphs 1.1.1 to 1.1.11 inclusive, including the costs and expenses of investigating, assessing or contesting any Assessment for Tax in respect of such liability or amount; or
  - (b) taking or defending any action in relation to a Tax Claim such costs and expenses to include reasonable compensation for time spent on such matters by employees of the Buyer or the Company.

1.2 In determining for the purposes of this schedule whether a charge on or a power to sell, mortgage or charge any of the shares or assets of the Company exists at any time, the fact that any Tax is not yet payable or may be paid by instalments shall be disregarded and such Tax shall be treated as becoming due and the charge or power to sell, mortgage or charge as arising on the date of the transfer of value or other Event on or in respect of which it becomes payable or arises.

1.3 The provisions of section 213 (Refund by instalments) IHTA 1984 shall not apply to any payment falling to be made under this schedule.

## 2. LIMITATIONS ON THE WARRANTORS' LIABILITY

2.1 The covenants contained in paragraph 1 shall not extend to any Tax Liability or other amount payable by the Warrantors under this schedule to the extent that:

- 2.1.1 such Tax Liability or other amount was paid or discharged on or before the Completion Accounts Date;
- 2.1.2 specific provision or reserve (other than by way of a provision for deferred tax) in respect of that Tax Liability or other amount was made in the Completion Accounts;
- 2.1.3 such Tax Liability or other amount arises in the ordinary course of business of the Company between the Completion Accounts Date and Completion but only to the extent that the income, profits or gains arising during that period have been retained by the Company at Completion save for Permitted Payments;
- 2.1.4 such Tax Liability would not have arisen but for a voluntary act, transaction or omission of the Company carried out after Completion which the Company knew or ought reasonably to have known would give rise to such liability but excluding any act:
  - (a) carried out or omitted pursuant to a legally binding obligation entered into by the Company on or before Completion or imposed on the Company by any regulation or requirement having the force of law or for the purpose of avoiding or mitigating a penalty which may be imposed by such legislation or requirement;
  - (b) which consists of communicating information to any Tax Authority or which consists of any disclosure to a Tax

Authority or other government, state, municipal, local or federal regulatory authority;

- (c) occurring in the ordinary course of business of the Company;
- (d) carried out or occurring with the written approval of the Sellers or pursuant to this agreement or any document executed pursuant to this agreement; or
- (e) which consists of the presentation by the Company of any document for stamping;

2.1.5 such Tax Liability arises or is increased as a direct result of:

- (a) any change in Tax Legislation or the published practice of any Tax Authority; or
- (b) any increase in the rate of Tax;

(in each case enacted after Completion, with retrospective effect).

2.1.6 recovery (less costs and expenses) has been made by the Buyer under the Agreement in respect of the same subject matter;

2.1.7 such Tax Liability or other amount arises or is increased or any provision or reserve in respect of the Tax Liability in the Completion Accounts is insufficient as a result of any change after Completion in the bases, methods or policies of accounting of the Company except in order to comply with generally accepted accounting principles in force at Completion;

2.1.8 such Tax Liability or other amount would not have arisen or would have been reduced or eliminated but for any claim, election, surrender or disclaimer made or notice or consent given or any other thing done, after Completion (other than one, the making, the giving or doing of which is required pursuant to the terms of this agreement or was taken into account in computing any provision for Tax in the Completion Accounts) under, or in connection with the provisions of any enactment or regulation relating to Tax by the Company or any member of the Buyer's Group save where such claim, election, surrender, disclaimer, notice, consent or other thing done is required to comply with any legislation in force at Completion;

2.1.9 such Tax Liability or other amount would not have arisen or would have been reduced or eliminated but for the failure or omission by the Company or any member of the Buyer's Group to make any claim, election, surrender or disclaimer or give any notice, or consent or do any other thing under or in connection with, the provision of any enactment or regulation relating to Tax at Completion the making, giving or doing of which was taken into account in computing any provision in the Completion Accounts and the requirement to make such claim, election, surrender or disclaimer or give notice, consent or other thing was notified by the Warrantors to the Buyer at least 20 Business Days before the expiry of any deadline relevant to the measure in question;

2.1.10 any Relief (other than an Accounts Relief or a New Relief) is available to the Company to set against or otherwise mitigate the Tax Liability or other amount (or is for no consideration made available by the Sellers to the Company);

2.1.11 such tax Liability or other amount would not have arisen but for a cessation or any major change in the nature or conduct of any trade carried out on or by the Company being a change or cessation occurring on or after Completion;

2.1.12 such Tax Liability or other amount has been made good by insurers other than W&I insurance or otherwise compensated for without cost to the Buyer or the Company;

2.1.13 such Tax Liability is one of interest and/or penalties arising under the Corporation Tax (Instalment Payment) Regulations 1998 (SI 1998/3175) as a result of or in consequence of income, profits or gains earned accrued or received after Completion insofar as the relevant underpayment was an underpayment due to a bona fide estimate made before Completion of the amount of income, profits or gains by reference to which payments of corporation tax were calculated; or

2.1.14 such Tax Liability or other amount consists of stamp duty or stamp duty reserve tax payable on the transfer or agreement to transfer the Shares pursuant to the Agreement.

2.2 None of the limitations on liability or other exclusions provided for in this paragraph 2 or paragraph 3 or in the Agreement as far as applicable to the Tax Warranties or the Tax Covenant shall apply where the Tax Liability is attributable to conduct described in paragraph 43 of schedule 18 to the FA 1998 or arises from a failure to comply with an obligation under section 309, 310 or 313 FA 2004 to disclose information about a Tax avoidance scheme to which the Company has been a party.

### 3. DURATION AND EXTENT

The Warrantors shall not be liable in respect of a Tax Liability unless they have received from the Buyer written notice of the Assessment for Tax which relates to that Tax Liability within seven years from Completion.

### 4. CHOICE OF CLAIM

The Buyer shall in its absolute discretion decide whether to make a claim under the Tax Covenant, the Tax Warranties or both.

### 5. BUYER'S KNOWLEDGE

Subject to paragraphs 1 to 3, the Buyer shall be entitled to make a claim under this Tax Covenant notwithstanding that the Buyer had knowledge (whether actual constructive or implied) on or before Completion of that Tax Liability (or the matter giving rise to the Tax Liability).

### 6. CREDIT FOR TAX SAVINGS

6.1 If, at the Warrantors' request and expense, the Auditors determine that the Company has obtained a Tax Saving the Buyer shall on demand repay to the Warrantors the lesser of:

6.1.1 the amount of the Tax Saving (as determined by the Auditors); and

6.1.2 the amount paid by the Warrantors in respect of the Tax Liability which gave rise to the Tax Saving, less any reasonable costs and expenses incurred by the Buyer or the Company in respect of that Tax Liability.

6.2 The Company will be entitled to use, in priority to any Relief which gives rise to a Tax Saving, any other Relief available to it (including by way of surrender by another company to it) to reduce or eliminate any liability to make an actual payment of corporation tax.

6.3 The Company will not obtain a Tax Saving until the last date upon which it would have been obliged to make an actual payment of corporation tax which has been reduced or eliminated in order to avoid interest thereon.



6.4 In determining whether the Company has obtained a Tax Saving, the Auditors will act as experts and not as arbitrators and their determination will (in the absence of manifest error) be conclusive and binding on the parties.

6.5 If the Buyer becomes aware that there is or may be a Tax Saving it shall (or shall procure that the Company shall) as soon as reasonably practicable inform the Warrantors of the fact and the amount of the Tax Saving.

## 7. DEDUCTIONS, WITHHOLDINGS AND TAX

With reference to any payments made by the Warrantors under this schedule:

7.1 Save only as may be required by law all sums payable by the Warrantors shall be paid free of all deductions or withholdings whatsoever or of any rights of counterclaim or set-off.

7.2 If any deduction or withholding is required by law to be made from any payment, or (if ignoring any available Relief) the Buyer is subject to Tax in respect of any payment, the Warrantors shall pay such additional sum as is necessary to ensure that the net amount received and retained by the Buyer (after taking account of such deduction or withholding or Tax) will leave the Buyer with the same amount as it would have been entitled to receive in the absence of any such requirement to make a deduction or withholding for or payment of Tax.

## 8. AMOUNT OF TAX LIABILITY

The amount of any Tax Liability or other amount shall be as follows:

8.1 to the extent that a Tax Liability or other amount involves a liability of the Company to make an actual payment or increased payment of Tax or in respect of Tax, the amount of such payment or increased payment;

8.2 to the extent that a Tax Liability or other amount involves a liability of the Company to make a payment or increased payment of Tax or in respect of Tax which would have arisen but for being satisfied, avoided or reduced by any Accounts Relief or New Relief, the amount of Tax or other amounts which the Accounts Relief or New Relief in fact saves;

8.3 to the extent that a liability involves the Loss of any Accounts Relief (other than a right to a repayment of Tax) the amount of Tax or other amounts which the use of the Accounts Relief would have saved had the Accounts Relief been used by the Company in the period in which the relevant Tax Authority first disallows, withdraws, claws-back, reduces, restricts or modifies the Accounts Relief (on the assumption that the Company would have had sufficient profits or was otherwise in a position actually to use the Accounts Relief); and

8.4 to the extent that liability involves the Loss of a Relief consisting of a right to a repayment of Tax, the amount of the repayment so Lost.

## 9. DUE DATE FOR PAYMENT

Where the Warrantors become liable to make a payment pursuant to the provisions of this schedule, the due date for the making of that payment in cleared funds shall be the date falling ten Business Days after the date on which the Company or (as the case may be) the Buyer has notified the Warrantors of the amount of the payment required to be made or, if later:

9.1 in the case of a liability within paragraphs 1.1.1, 1.1.5, 1.1.6, 1.1.7, 1.1.8, 1.1.9, 1.1.10 and 1.1.11 of this part the day before the last date on which the payment of Tax in question may be paid to the relevant Tax Authority in order to avoid incurring a liability to interest or a charge fine or penalty in respect of that Tax Liability; or

9.2 in the case of the Loss or set-off of a Relief (being a right to repayment of Tax) within paragraphs 1.1.2 or 1.1.3 of this part the date on which such repayment would have been received but for the Loss or set-off; or

9.3 in the case of the Loss or set-off of a Relief (other than a right to repayment of Tax) within paragraphs 1.1.2 or 1.1.3 of this part the last date on which the Tax Liability which (but for the Loss or set-off) would have been payable could have been paid to the relevant Tax Authority in order to avoid incurring a liability to interest or a charge fine or penalty in respect of that Tax Liability; or

9.4 in the case of a liability within paragraph 1.1.4 of this part the day on which the payment giving rise to the liability falls due;

9.5 in the case of a liability within paragraph 1.1.12 of this part the second Business Day before such costs and expenses become due and payable or are otherwise incurred by the Buyer and/or the Company.

## 10. INTEREST ON LATE PAYMENTS

If any monies due under this schedule are not paid in full on the due date for payment, they will bear interest at a rate 4% per annum above the base lending rate of the Bank from time to time in force, such interest to be paid monthly in arrears on the last business day of each month. Interest will accrue and be payable both before and after judgment and, if not paid when due, will be compounded and itself bear interest in accordance with this paragraph 10.

## 11. PRICE REDUCTION

Any payment by the Warrantors under this schedule shall (so far as possible) be treated as a reduction in the consideration paid for the Shares provided that nothing in this paragraph 11 shall limit or exclude the liability of the Warrantors under this Agreement.

## 12. ASSESSMENTS FOR TAX

12.1 If the Buyer or the Company receives an Assessment for Tax which is likely to give rise to a liability of the Warrantors under this Tax Covenant, the Buyer shall (or shall procure that the Company shall) as soon as reasonably practicable and in any event not later than 10 Business Days before the expiry of any deadline relevant to responding to or appealing against an Assessment for Tax give notice of such Assessment for Tax to the Sellers' Representative giving details of the nature and quantum of the Assessment for Tax insofar as available at the time notice is given (but for the avoidance of doubt, such notice shall not be a condition precedent to the liability of the Warrantors under this Tax Covenant).

12.2 If the Warrantors indemnify and secure the Company and the Buyer and all other members of the same group of companies as the Buyer to the reasonable satisfaction of the Buyer against all losses, costs, damages and expenses (including interest on overdue Tax and additional Tax) which may be incurred as a result, the Buyer shall (and shall procure that the Company shall), at the Warrantors' cost and expense in accordance with any reasonable instructions of the Sellers' Representative promptly given by notice to the Buyer seek to avoid, dispute, resist, appeal, compromise or defend such Assessment for Tax provided always that:

12.2.1 the Warrantors agree to pay to the Buyer and the Company an amount equal to any costs and expenses (excluding recoverable VAT) which are incurred by either the Buyer and/or the Company in taking such action (together with the Tax which is the subject matter of the claim (the **Disputed Tax**) where it is necessary to pay the Disputed Tax in order to resist or otherwise deal with the Tax Claim) in cleared funds within 15 Business Days after service by the Buyer to the Warrantors of notice that such costs and expenses have been incurred together with a copy of the relevant invoice (or, in

relation to the Disputed Tax, at least 2 Business Days before the date on which the Disputed Tax is required to be paid). For the purpose of this paragraph 12.2.1, "incurred" means the earlier of the date on which payment has been made in respect of those costs and expenses or the date on which an invoice has been received in respect of those costs or expenses by either the Buyer and/or the Company;

- 12.2.2 the Buyer and the Company shall be free to take such action as they may in their absolute discretion think fit and without prejudice to their rights and remedies under this schedule if, having given the Sellers' Representative notice pursuant to paragraph 12.1 the Buyer has not, within 10 Business Days of service of such notice received instructions from the Sellers' Representative, in accordance with the provisions of this paragraph 12.2 to resist the Assessment for Tax;
- 12.2.3 the Buyer and the Company shall not be obliged to comply with any instruction of the Sellers' Representative which involves contesting any Assessment for Tax before any court or other appellate body (excluding the Tax Authority in question) unless the Warrantors provide the Buyer with the written opinion of tax counsel of at least ten years' call in the relevant practice area to the effect that such contest will, on the balance of probabilities, be successful;
- 12.2.4 the Buyer and the Company shall not in any event be obliged to comply with any instruction of the Sellers' Representative to make a settlement or compromise of an Assessment for Tax which is the subject of a dispute or agree any matter in the conduct of such dispute which is likely materially to increase the future liability of the Company or the Buyer in respect of Tax or which the Buyer reasonably considers will be materially prejudicial to the business or Tax affairs of the Company or to which the Buyer objects on any other reasonable ground; or
- 12.2.5 the Buyer and the Company shall be entitled to admit, compromise, settle, discharge or otherwise deal with an Assessment for Tax on such terms as it, in its absolute discretion, thinks fit
- (a) if the deadline prescribed by Tax Legislation for making an appeal against the Assessment for Tax or any decision of a court or tribunal in respect of such Assessment for Tax has expired;
  - (b) if any Tax Authority alleges conduct described in paragraph 43 of schedule 18 to the FA 1998 in relation to any Tax Liability of the Company or there is a failure to comply with sections 309, 310 or 313 FA 2004;
  - (c) if any action or step is taken or legal proceedings are commenced to put any of the Warrantors into bankruptcy or appoint an interim receiver pursuant to section 286 Insolvency Act 1986 or to enter into arrangements with their creditors pursuant to part VIII Insolvency Act 1986; or
  - (d) the Warrantors have not paid an amount equal to the costs and expenses (excluding recoverable VAT) and/or the Disputed Tax (if relevant) incurred by either the Buyer and/or the Company in accordance with paragraph 12.2.1 within the required time for payment.
- 12.3 Neither the Company nor the Buyer shall be required to delegate the conduct of any action to be taken to the Warrantors or any professional adviser or agent of the Warrantors.
- 12.4 The Buyer shall keep the Sellers' Representative informed of the progress of any dispute or appeal of any Assessment for Tax conducted by the Buyer at the request of the Sellers' Representative and shall provide the Sellers' Representative as soon as reasonably practicable with copies of all material correspondence and other documents relating to such dispute or appeal.
- 12.5 The provisions of this paragraph 12 shall apply mutatis mutandis to any Assessment for Tax or breach of warranty which is likely to give rise to a claim under the Tax Warranties.
- 13. RECOVERY FROM THIRD PARTIES**
- 13.1 If the Buyer or the Company recovers from any other person (including a Tax Authority but excluding the Buyer, any member of the same group of companies as the Buyer or any officer or employee of any such company) any amount which is referable to a Tax Liability in respect of which the Warrantors have made a payment under this schedule, the Buyer will repay to the Warrantors the lesser of:
- 13.1.1 the sum recovered (less any reasonable costs and expenses incurred by the Company and/or the Buyer or any other member of the same group of companies as the Buyer in recovering that sum and any tax payable on the receipt of the same); and
  - 13.1.2 the amount paid by the Warrantors pursuant to the provisions of this schedule less any amount paid in respect of costs and expenses under paragraph 1.1.12 of this part in respect of the Tax Liability and any amount previously repaid to the Warrantors under any provision of this agreement or otherwise.
- 13.2 If the Buyer or the Company becomes aware that it is entitled to recover any amount mentioned in paragraph 13.1, the Buyer will as soon as reasonably practicable give notice of that fact to the Warrantors and provided that the Warrantors indemnify and secure the Buyer or the Company and all other members of the same group of companies as the Buyer to the reasonable satisfaction of the Buyer against all losses, costs, damages and expenses (including additional Tax) which may be incurred thereby, the Buyer shall procure that the Company, at the Warrantors' cost and expense shall take such action as the Warrantors may reasonably and promptly request to effect such recovery.
- 13.3 The action which the Warrantors may request the Company to take under paragraph 13.2 does not include:
- 13.3.1 any action which the Buyer reasonably considers to be materially prejudicial to the business or Tax affairs of the Buyer and/or the Company or any other member of the same group of companies as the Buyer or to which the Buyer objects on any other reasonable ground; or
  - 13.3.2 any action where any Tax Authority alleges conduct described in paragraph 43 of Schedule 18 to FA 1998 in relation to any Tax Liability of the Company; or
  - 13.3.3 allowing the Warrantors to undertake conduct of any action necessary to effect the recovery of the amount in question.
- 13.4 The Warrantors agree to pay to the Buyer and the Company an amount equal to any reasonable costs and expenses (excluding recoverable VAT) which are incurred by either the Buyer and/or the Company in taking such action as is required by the Warrantors pursuant to paragraph 13.2 in cleared funds within 10 Business Days after service by the Buyer to the Warrantors of notice that such costs and expenses have been incurred together with a copy of the relevant invoice. For the purpose of this paragraph 13.4 "incurred" means the earlier of the date on which payment has been made in respect of those costs and expenses or the date on which an invoice has been received in respect of those costs or expenses by either the Buyer and/or the Company.
- 13.5 For the purpose of this paragraph any costs or expenses incurred at the request or with the acquiescence of the Warrantors shall be deemed to be reasonably incurred.
- 14. RELEASE**

- 14.1 Any liability of the Warrantors under this schedule or for breach of any of the Tax Warranties may in whole or in part be released, compounded or compromised by the Buyer in its absolute discretion or time or indulgence may be given by the Buyer in its absolute discretion as regards the Warrantors who are under liability without in any way prejudicing or affecting its rights against the Warrantors under the same or a like liability whether joint and several or otherwise.
- 14.2 No delay or omission of the Buyer in exercising any right, power or privilege under this schedule or in relation to the Tax Warranties shall impair such right, power or privilege or be construed as a waiver of such right, power or privilege and any single or partial exercise of any such right, power or privilege shall not preclude the further exercise of any right, power or privilege.
15. **LIMITATION ACT 1980**
- The Warrantors shall not plead any of the provisions of the Limitation Act 1980 in defence against a Tax Claim.

### **Part 3 – Tax Warranties**

#### **1. TAX RETURNS**

- 1.1 The Company has duly and properly made all claims disclaimers elections and surrenders and given all notices and consents and done all other things in respect of Tax the making giving or doing of which was assumed to have been made for the purposes of the Accounts. All such claims, disclaimers, elections, surrenders, notices, consents and other things have been accepted as valid by the relevant Tax Authority and none have been revoked or otherwise withdrawn or so far as the Warrantors are aware are likely to be revoked or otherwise withdrawn. There are no claims, disclaimers, elections, notices or consents where the time limit for action required expires within three months of the date of this Agreement.
- 1.2 The Company has duly and punctually made or submitted all returns, computations, notices, registrations and accounts which ought to have been made for the purposes of Tax (including all returns, documents or information in respect of PAYE and National Insurance) and all such returns (and all other information supplied to any Tax Authority for such purpose):
- 1.2.1 were at the time when they were submitted complete, correct and up-to-date and remain complete and correct in all material respects;
  - 1.2.2 have not been disputed or resulted in a request for further information by the Tax Authority concerned (other than routine enquiries concerning the corporation tax computations of the Company, all of which have now been satisfactorily answered); and
  - 1.2.3 so far as the Warrantors are aware there are no facts or circumstances likely to give rise to any dispute, discrepancy or claim relating to Tax in respect of any financial period prior to the date of this Agreement.
- 1.3 The Tax affairs of the Company have never been the subject of investigation or enquiry by any Tax Authority and no Tax Authority has indicated that it intends to investigate the Tax Affairs of the Company. So far as the Warrantors are aware there are no facts or circumstances likely to give rise to any such investigation.
- 1.4 The Company has duly and punctually paid all Tax which it has become liable to pay and is not, nor has it been under any liability to pay any fine, charge, surcharge penalty or interest in connection with any Assessment for Tax and there is no Tax the payment of which has been postponed or otherwise affected by agreement, concession, dispensation or arrangement (whether formal or informal) with the relevant Tax Authority or by virtue of any right under the Tax Statutes or the practice of any Tax Authority.
- 1.5 The Company has not been concerned in any transaction to which any of the following provisions have been or will be applied:
- 1.5.1 sections 135 to 137 (inclusive) (Company reconstructions) TCGA 1992;
  - 1.5.2 sections 733 to 742 CTA 2010 (counteraction of corporation tax advantage);
  - 1.5.3 section 139 (Reconstruction involving transfer of business) TCGA 1992;
  - 1.5.4 section 192 (tax exempt distributions) TCGA 1992 and sections 1073 to 1099 CTA 2010 (demergers);
  - 1.5.5 sections 1033 to 1048 CTA 2010 (purchase of own shares);
  - 1.5.6 part 18 CTA 2010 (transactions in land); and
  - 1.5.7 part 19 CTA 2010 (sale and lease-back etc.).
- 1.6 The Company has (to the extent required by law) preserved and retained in its possession complete and accurate records relating to its Tax affairs (including PAYE and National Insurance records, VAT records and records relating to transfer pricing) and has sufficient records relating to past events to calculate the profit, gain, loss, balancing charges or allowances or any reliefs (all for Tax purposes) which would arise on any disposal or on the realisation of any assets owned at the Accounts Date or acquired since that date.
- 1.7 The Disclosure Letter contains full details, including any applicable time limits for the making thereof, of every claim, election or disclaimer taken into account in any returns or in the Accounts which are still required to be made by the Company.

#### **2. ACCOUNTS**

- 2.1 Provision has been made and shown (or disclosed of by way of note) in the Accounts for deferred Tax or any contingent liability to Tax.
- 2.2 Since the Accounts Date no disposal or other event has taken place which, had it been planned at the Accounts Date, should have been reflected in the provision for deferred tax contained in the Accounts.

#### **3. DEDUCTIONS AND WITHHOLDINGS**

The Company has made all deductions and withholdings in respect of, or on account of, any Tax (including amounts to be deducted under PAYE) from any payments made by it which it is obliged or entitled to make and (to the extent required to do so) has accounted in full to the relevant Tax Authority for all amounts so deducted or withheld and has (to the extent required by law) duly provided certificates of deduction of tax to the recipients of payments from which deductions have been made.

#### **4. OVERSEAS ELEMENTS**

- 4.1 The Company has never been resident or had a branch, agency, place of business, any permanent establishment (within the meaning of section 1141 CTA 2010) or subsidiary incorporated outside the United Kingdom and has never carried out any trading activities outside the United Kingdom for the purposes of any Tax Legislation.
- 4.2 The Company has never been (nor is it liable to be) assessed to Tax as the agent or representative of any person not resident in the United Kingdom.

4.3 The Company does not and has never held shares in a company which is not resident in the United Kingdom and which would be a close company if it were resident in the United Kingdom, in circumstances that any chargeable gain accruing to that other company could be apportioned to the Company under section 13 TCGA 1992.

4.4 The Company is not liable to register with any Tax Authority outside the United Kingdom for the purpose of paying or administering any Tax.

## 5. CLOSE COMPANIES

5.1 The Company is not and has not at any time been a close investment holding company within the meaning of section 34 CTA 2010.

5.2 The Company has not at any time during the period of seven years ending on the date of this agreement made any payment which falls to be treated as a distribution under section 1064 CTA 2010 (certain expenses of close companies treated as distributions).

5.3 The Company has not made or waived any loan, advance or payment or given any consideration which could fall to be chargeable to tax under chapter 3 of part 10 CTA 2010 (charge to tax in case of loan to a participator) and which have remained outstanding at any time during the period of seven years ending on the date of this Agreement and the Company has not released or written off or agreed to write off the whole of any such loans or advances.

5.4 The Company has not made any transfers of value (as specified in section 94(1) IHTA 1984) and there has been no variation in the Company's share or loan capital within section 98 (Effect of alterations of capital) IHTA 1984. The Company is not liable for any Tax under section 199 (Dispositions by transferor) IHTA 1984.

## 6. CORPORATION TAX – PROFITS AND LOSSES

6.1 Since the Accounts Date:

6.1.1 no Event has occurred which has given or may give rise to any liability to Tax (or would or may have given rise to a liability to Tax but for the availability of a Relief) other than corporation tax on trading profits of the Company (and not chargeable gains, balancing charges or deemed income or profits) arising from transactions entered into in the ordinary course of business of the Company as carried on at the Accounts Date; and

6.1.2 no expense has been incurred and the Company is under no obligation to incur any expenditure which is not deductible by the Company in computing its taxable profits for corporation tax purposes for its current accounting period.

6.2 All losses of the Company are trading losses and are available to be carried forward and set off against income from the same trade in succeeding periods.

6.3 Since the Accounts Date the Company has not made and is under no obligation under which it is, or at any time may become, liable to make any payment of an income nature which has not been and will or may not be allowable in full for corporation tax purposes or which may be disallowed as a deduction, as a set-off or as a charge on income or otherwise be unrelieved for corporation tax purposes by reason of the provisions of chapter 4 part 3 (Trade profits rules restricting deductions) and sections 103 (Sums recovered under insurance policies) and 231 (Deductions for expenses under section 232) CTA 2009, sections 82, 1244 and 1253 CTA 2009 (Contributions to local enterprise agencies etc), section 1301 (annual payments for non-taxable consideration) CTA 2009, part 6 CTA 2010 (charitable donations), part 4 TIOPA 2010 (transfer pricing), part 19 CTA 2010 (sale and leaseback) or section 443 (restriction of relief for payments of interest) CTA 2009 or otherwise.

6.4 The Company has not during the period beginning six years before Completion discontinued a trade in circumstances such that its closing trading stock and work in progress falls to be valued at open market value as provided for in section 164(4) CTA 2009 (basis of valuation of trading stock).

6.5 No change of ownership of the Company has taken place in circumstances such that chapter 2 of part 14 CTA 2010 (disallowance of trading losses) or chapter 3 part 14 CTA 2010 (company with investment business restrictions on relief) have been or may be applied to deny relief for a loss or losses incurred by the Company and, within the period of three years ending with the date of this agreement, there has been no major change in the nature of conduct of any trade or business carried on the Company, nor has the scale of the activities in any trade or business carried on the Company at any time become small or negligible for the purposes of those sections.

6.6 Neither the Company nor any associated company of the Company owns any intangible asset which was acquired from another company which was at the time a member of a group of companies for the purposes of section 780 (Deemed realisation and reacquisition at market value) CTA 2009.

6.7 Neither the Company nor any company which was a member of the same group of companies at the Company at the relevant time has made any claim under chapter 7 part 8 (roll-over relief in case of realisation and reinvestment) CTA 2009 or section 777 (roll-over relief on reinvestment – application to group member) CTA 2009.

## 7. CAPITAL GAINS

7.1 The sum which would be allowed as a deduction from the consideration under section 38 (Acquisition and disposal costs etc.) TCGA 1992 of each asset of the Company (other than trading stock) if disposed of on the date of this Agreement would not be less than (in the case of an asset held on the Accounts Date) the book value of that asset shown or included in the Accounts or (in the case of an asset acquired since the Accounts Date) an amount equal to the consideration given for its acquisition.

7.2 No transaction has been entered into by the Company in circumstances falling within section 17 (disposals and acquisitions treated as made at market value) TCGA 1992 and the Company is not entitled to any capital loss to which section 18(3) (transactions between connected persons) TCGA 1992 may apply.

7.3 The Company has not been a party to or involved in any transaction to which sections 29 – 34 (value shifting) TCGA 1992 may be applicable.

7.4 Neither the Company nor any company which was a member of the same group of companies as the Company at the relevant time has made any claim under sections 152 to 157 inclusive TCGA 1992 (replacement of business assets) or sections 175 (replacement of business assets by member of a group) or 247 (roll-over relief on compulsory acquisition) TCGA 1992.

7.5 The Company does not own any depreciating asset in respect of which a held over gain may accrue pursuant to sections 154(2) and/or 175(3) TCGA 1992.

7.6 The Company has never made any claim or election under section 161(3) (appropriation of asset to trading stock) TCGA 1992.

7.7 The Company has not ceased to be a member of a group of companies for the purposes of section 179 (deemed disposal of a chargeable asset) TCGA 1992 otherwise than as part of a merger to which section 181 (exemption from charge under section 178 or 179 TCGA 1992 in the case of certain mergers) TCGA 1992 applied.

7.8 The Company does not own any asset which was acquired from another company which was at the time a member of a group of companies for the purposes of section 179 (deemed disposal of a chargeable asset) TCGA 1992.

## 8. **EVENTS SINCE THE ACCOUNTS DATE**

8.1 None of the following events have occurred in relation to the Company since the Accounts Date:

- 8.1.1 a deemed (as opposed to actual) acquisition disposal or supply of assets goods services or business facilities;
- 8.1.2 a disposal or supply of assets goods services or business facilities by the Company for a consideration which is treated for the purposes of Tax as less than the actual consideration;
- 8.1.3 a distribution within the meaning given by section 1000 CTA 2010 (meaning of distribution) or within section 1064 CTA 2010 (certain expenses of close companies treated as distributions);
- 8.1.4 a transaction or arrangement which includes or a series of transactions or arrangements which include any step or steps having no commercial or business purpose apart from the deferral, reduction or avoidance of a liability to Tax;
- 8.1.5 an Event giving rise to a balancing charge;
- 8.1.6 the Company ceasing or being deemed to cease to be a member of any group or associated with any other Company for the purposes of Tax;
- 8.1.7 an Event which results in the Company being liable for Tax for which it is not primarily liable; or
- 8.1.8 an Event which gives rise to a liability of the Company for any penalty, surcharge or interest on Tax.

8.2 For the purposes of this paragraph 8 "business facilities" means business facilities of any kind including but not limited to a loan of money in a letting, hiring or licensing of any tangible or intangible property.

## 9. **CONCESSIONS**

The Company has not entered into an arrangement with any Tax Authority (whether general or specific to the Company) which affects the amount of Tax chargeable on the Company or which purports to modify or provide exemption from any obligation to make or submit any computation, notice or return to any Tax Authority.

## 10. **CORPORATION TAX – LOAN RELATIONSHIPS**

10.1 There are no outstanding debts owed by or to the Company, or any securities issued by the Company or which the Company owns or in which it has an interest which will not be repaid at Completion other than trade debts within the exemption at section 251(1) (Debts – general provisions) TCGA 1992 and which do not arise out of loan relationships of the Company for the purposes of part 5 CTA 2009.

10.2 The Company has at all times applied an amortised cost basis of accounting (as defined in section 313(4) CTA 2009).

10.3 The Disclosure Letter contains full and accurate particulars of any loan relationships to which the Company is a party, whether as debtor or creditor, where any other party to that loan relationship is connected with the Company for the purposes of part 5 CTA 2009 or where the Company or the other party to the loan relationship has a major interest in the other as "major interest" is defined in section 473 CTA 2009.

10.4 The Disclosure Letter contains full and accurate particulars of any debtor relationship (as defined in section 302(6) CTA 2009) of the Company which relates to a deeply discounted security (as defined in section 430 ITTOIA 2005) to which sections 406 to 412 CTA 2009 apply.

10.5 The Company has not entered into any transaction to which section 444 (Transactions not at arm's length - general) CTA 2009 applies.

10.6 The Company has not been, and is not entitled to be, released from any liability which arises under a debtor relationship of that Company.

## 11. **CAPITAL ALLOWANCES**

11.1 No balancing charge in respect of any capital allowances claimed or given would arise if any asset of the Company were to be realised for a consideration equal to the amount of the book value of such asset as shown or included in the Accounts (or, in the case of any asset acquired since the Accounts Date, for a consideration equal to the consideration given for the acquisition).

11.2 So far as the Warrantors are aware, all necessary conditions for the availability of all capital allowances claimed by the Company (or, where computations are made for capital allowances purposes for pools of assets, all the assets in that pool) have at all material times been satisfied and remain satisfied.

11.3 The Disclosure Letter contains full details of all expenditure incurred since the Accounts Date or to be incurred under any subsisting commitment in respect of which allowances can be claimed under part 2 (plant and machinery allowances) and part 3 (industrial building allowances) CAA 2001.

## 12. **SECONDARY LIABILITY**

So far as the Warrantors are aware, no Event has occurred in consequence of which the Company is or may be held liable to pay or bear any Tax which is primarily chargeable against or attributable to some person firm or company other than the Company.

## 13. **STAMP TAXES**

13.1 The Company has duly paid all stamp duty for which it is or has been or may be made liable and without limitation:

- 13.1.1 all documents in the enforcement of which the Company is or may be interested have been duly stamped; and
- 13.1.2 there are no documents outside the United Kingdom which if they were brought into the United Kingdom would give rise to a liability to stamp duty payable by the Company.

13.2 The Company has duly paid all SDRT for which it is or has become liable and the Company has not been party to any transfer of chargeable securities (within the meaning of section 99 FA 1986) in respect of which the Company could become liable to pay any SDRT.

13.3 Entering into this agreement or Completion does not result in the withdrawal of any relief claimed for the purposes of SDLT or stamp duty or the clawback of any SDLT or stamp duty.

13.4 The Company is not liable to any penalty in respect of any stamp duty or SDRT.

- 13.5 The Disclosure Letter sets out full and accurate details of any chargeable interest (as defined in section 48 FA 2003) acquired or held by the Company in respect of which a land transaction return or additional land transaction return will be required to be filed with a Tax Authority or payment of SDLT made on or after Completion.
- 13.6 SDLT has been paid in full in respect of all land transactions to which SDLT applies and in respect of which the Company is the purchaser within the meaning of section 43(4) FA 2003 and the Company has never claimed relief from SDLT under part 1 (Group Relief) or part 2 (Reconstruction and Acquisition Relief) of Schedule 7 FA 2003 in the three years prior to the date of this agreement.
- 13.7 The Company has not made any application to defer any payment of SDLT.
- 13.8 The Company has not entered into any transaction for the acquisition of any interest in real property which may give rise to an obligation after Completion to make a return and/or a payment of SDLT pursuant to section 80 (Adjustment where contingency ceases or consideration is ascertained) or paragraph 8 of Schedule 17A (settlement of contingencies etc) FA 2003.
14. **ANTI-AVOIDANCE**
- 14.1 The Company has not in the period of three years ending on the date of this Agreement been party to any non-arm's length transaction.
- 14.2 The Company has not in the period of three years ending on the date of this Agreement been party to or otherwise involved in any scheme or arrangement designed partly or wholly for the purpose of avoiding, deferring or reducing any liability to Tax or amounts to be accounted for under PAYE.
- 14.3 The Company has never entered into a scheme or arrangement where either the Company or the scheme provider, promoter or introducer is required by law to notify details of the scheme or arrangement to a Tax Authority.
15. **VALUE ADDED TAX**
- 15.1 The Company is registered for VAT in the United Kingdom under schedule 1 (Registration in respect of taxable supplies) VATA 1994 and has not at any time in the last six years been treated as (nor applied to be) a member of a group of companies for VAT purposes.
- 15.2 The Company is a taxable person for VAT purposes, has complied with all the requirements of VATA 1994 and all applicable regulations and orders, and has fully maintained complete, correct and up-to-date records, invoices and other necessary documents and is not liable to any abnormal or non-routine payment of VAT, or any forfeiture or penalty, or to the operation of any penal provision.
- 15.3 All VAT due and payable to the Commissioners of HM Revenue & Customs has been declared and paid in full.
- 15.4 The Company has not been required by the Commissioners of HM Revenue & Customs to give security under paragraph 4 schedule 11 (power to require security and production of evidence) VATA 1994.
- 15.5 Full details of any claim for bad debt relief under section 36 (bad debts) VATA 1994 made by the Company have been disclosed in the Disclosure Letter.
- 15.6 The Company has not made any exempt supplies.
- 15.7 The Disclosure Letter contains full details of any assets of the Company to which the provisions of part XV (the capital goods scheme) VAT Regulations apply and in particular:
- 15.7.1 the identity (including in the case of leasehold property, the terms of years), date of acquisition and cost of the asset; and
- 15.7.2 the proportion and amount of input tax for which tax credit has been claimed (either provisionally or finally in a tax year and stating which tax year).
- 15.8 The Company has not been a party to a transaction to which Article 5 (transfer of business as a going concern) of the Value Added Tax (Special Provisions) Order 1995 has (or has purported to have been) applied.
- 15.9 The Company is not registered (nor required to be registered) for local VAT or its equivalent in any State other than the United Kingdom.
- 15.10 The Company has not made and is not otherwise bound by any election made pursuant to paragraph 2 (effect of the option to tax: supplies become taxable) or paragraph 21 (real estate elections) of schedule 10 VATA 1994.
16. **DUTIES**
- 16.1 All VAT payable upon the importation of goods and all customs and excise duties payable to HM Revenue & Customs in respect of any assets (including trading stock) imported or owned by the Company have been paid in full.
17. **GROUPS**
- 17.1 The Company has not, nor has it at any time in the last seven years been:
- 17.1.1 a member of a group of companies as defined by section 170 TCGA 1992; or
- 17.1.2 a 51% subsidiary of any company as defined by section 1154(2) CTA2010 and the Company does not have (and never has had) any 51% subsidiary as so defined; or
- 17.1.3 owned by a consortium (as defined in section 153 CTA 2010) and the Company is not nor has it ever been a member of a consortium.
- 17.2 The Company does not have and has not had at any time in the last seven years any associated company within the meaning of section 25 CTA 2010.
18. **SHARE SCHEMES, BONUS SCHEMES AND EMPLOYEE BENEFITS CONTRIBUTIONS**
- 18.1 No security, nor any interest in any security, has been acquired by any person where the right or opportunity to acquire the securities or the interest in the securities was made available by reason of the employment (that expression having the same meaning which it is given in section 421B ITEPA 2003) of any person with the Company. For the purposes of this warranty "security" has the meaning given to that term in section 420 ITEPA 2003 and "securities" shall be construed accordingly.
- 18.2 The Disclosure Letter sets out full details of all securities options (within the meaning given in section 420(8) ITEPA 2003) acquired by any person where the right or opportunity in acquiring any such securities option was made available by reason of employment with the Company or that person or of any other person.
- 18.3 The Company has been allowed a deduction in calculating its profits for corporation tax purposes in respect of each and every employee benefit contribution (as defined in section 1291(1) CTA 2009) which it has made in any accounting period ended before

Completion.

18.4 In relation to the accounting period current at Completion, either no employee benefit contribution (as defined in paragraph 1(2) of schedule 24 FA 2003) has been made or, if such a contribution has been made, the whole of such contribution has been applied before Completion in the provision of "qualifying benefits" or "qualifying expenses" as those terms are defined in section 1296 CTA 2009.

18.5 The Company has complied with all its reporting obligations under ITEPA 2003.

## 19. **CONSTRUCTION INDUSTRY**

The Company is not and has never been either a contractor or a sub-contractor for the purposes of chapter 3 part 3 FA 2004.

## 20. **INHERITANCE TAX**

20.1 So far as the Warrantors are aware the Company is not and will not become liable to be assessed to Inheritance Tax as donor or donee of any gift or as a transferor or transferee of value (actual or deemed) nor as a result of any disposition, chargeable transfer or transfer of value (actual or deemed) made by or deemed to be made by any other person.

20.2 There is no unsatisfied liability to Capital Transfer Tax or Inheritance Tax attached or attributable to the assets of the Company or the shares of the Company and neither such assets nor such shares are subject to charge in favour of HM Revenue and Customs.

20.3 So far as the Warrantors are aware, no person has the power under section 212 (Power to raise tax) IHTA 1984 to raise any Inheritance Tax by sale or mortgage of or by a terminable charge on any of the Company's assets or shares.

20.4 The Company is not entitled to an interest in possession in settled property.

## 21. **CORPORATION TAX – INSTALMENT PAYMENTS**

21.1 The Company is not a "large company" as defined by regulation 3 (Large companies) CTIP.

## 22. **INTELLECTUAL PROPERTY**

22.1 The Company has sufficient records to identify which (if any) of the intangible fixed assets shown in the Accounts are "existing assets" within the meaning of section 881 CTA 2009.

22.2 The Company has not sold or agreed to sell any patent rights for a capital sum which would be chargeable as income pursuant to chapter 3 part 9 (sales of patent rights) CTA 2009.

22.3 Since the Accounts Date the Company has not acquired or disposed of or agreed to acquire or dispose of know-how (whether or not together with a trade or part of a trade) in connection with which chapter 13 part 3 (disposal or acquisition of know-how) or chapter 2 part 9 (disposal of know-how) CTA 2009 apply or may apply.

**SCHEDULE 7****Property****Part 1 – Leasehold**

<b>Description (including any title number)</b>	<b>Details of lease</b>	<b>Duration</b>	<b>Current annual rent and review date</b>	<b>Existing use</b>	<b>Break rights</b>	<b>Exclusion from s24-28 LTA 1954</b>
Unit 11 Loomer Road, Newcastle-under-Lyme, Staffs	11 June 2013	11 June 2013 - 10 June 2019 (6 years)	£10k per annum exclusive	Warehouse for storage and distribution, as industrial unit and ancillary office space	11 June 2016 on 6 months written notice	No
Unit 12, 13, 14, 19, & 20 Loomer Road, Newcastle-under-Lyme, Staffs	6 April 2010	Lease from year to year from 5 January 2010, terminable on 12 months prior written notice	£45k per annum exclusive subject to current rent reduction. Rent reviewed on every third anniversary of the lease.	Manufacturing warehouse for storage and distribution and ancillary office space	Terminable on 12 months written notice by either party.	No



## Part 2 – The Property Warranties

1. In this part 2 of schedule 7, in addition to the words and expressions defined in clause 1.1, the following definitions shall apply:

### **Planning Acts**

the TCPA, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990 and the Planning and Compulsory Purchase Act 2004;

### **Planning Permission**

a permission under the TCPA; and

### **TCPA**

the Town and Country Planning Act 1990.

2. Copies of all the leases and licences, if any, affecting, benefiting or to which the Properties are subject are contained in the Disclosure Documents.
3. There are appurtenant to the Properties all rights and easements necessary for their existing and continued use and enjoyment.
4. The unexpired residue of the term granted by each lease of the Properties is vested in the Company.
5. Any right or easement appurtenant to the Properties are held by the Company in fee simple. No right or easement appurtenant to the Properties are terminable by any third party.
6. The Company is the legal and beneficial owner of the leasehold interest in the Properties and has a good and marketable title to such leasehold interest in the Properties with full title guarantee.
7. There is no person in possession or occupation of, or who has or claims any right or interest of any kind in, the Properties (whether adversely to the interests of the Company or otherwise) and the Company is entitled to and has exclusive vacant possession of the Properties.
8. Where title to any of the Properties are unregistered, no event has occurred in consequence of which registration should have been effected at HM Land Registry.
9. All rents payable pursuant to the leases of the Properties by the Company have been paid as and when they became due.
10. So far as the Warrantors are aware, the use of the Properties are the permitted use for the purposes of the Planning Acts and the existing permitted use is not temporary or personal or subject to planning conditions of an onerous or unusual nature.
11. So far as the Warrantors are aware Planning Permission has been granted or is deemed to have been granted for the purposes of the Planning Acts in respect of any development, alteration, extension or other improvement of the Properties which has been carried out during the Company's occupation of the Properties. No such Planning Permission relating to the Properties are of a personal or temporary nature or subject to unusual or onerous conditions. Building regulations consent has been obtained with respect to all developments, extensions, alterations and improvements to the Properties.
12. So far as the Warrantors are aware, no Planning Permission which has been obtained in relation to the Properties has been suspended or called in and no application for Planning Permission is awaiting decision.
13. So far as the Warrantors are aware, no part of any Property is affected or, as far as the Warrantors are aware, is likely to become affected, by:
  - 13.1 any outstanding dispute or notice of complaint;
  - 13.2 any exception, reservation, right, covenant, restriction or condition which is of an unusual or onerous nature or which affects or might in the future affect the use of that Property for the purpose for which it is now used;
  - 13.3 any notice, order or proposal made or issued by or on behalf of any government or statutory authority;
  - 13.4 the carrying out of any work upon any building, the modification of any Planning Permission, the discontinuance of any use or the imposition of any building or improvement line;
  - 13.5 any compensation received as a result of any refusal of any application for Planning Permission or the imposing of any restrictions in relation to any Planning Permission;
  - 13.6 the payment of any outgoing (other than normal rates and taxes); or
  - 13.7 any commutations of rent or payment of rent in advance of the due dates for payment.
14. The Properties are not listed as being of specific historic interest or architectural importance nor is it located in a conservation area.
15. No licence is required in relation to the current use of the Properties.
16. In relation to or affecting the Properties, so far as the Warrantors are aware, there are no:
  - 16.1 compulsory purchase notices, orders or resolutions or any closing, demolition or clearance orders; or
  - 16.2 planning contravention, enforcement, breach of condition or stop notices issued by any local planning authority nor has any other enforcement action (including the exercise of any right of entry) been taken by any such authority,and, as far as the Warrantors are aware, there are no circumstances likely to lead to any of the above being made.
17. So far as the Warrantors are aware, all restrictions, conditions and covenants (including any imposed pursuant to the Planning Acts) affecting the Properties have been observed and performed up to date.
18. There are no structural defects (latent or patent) affecting the Properties.
19. So far as the Warrantors are aware, the Properties are not subject to or affected by rights of common or past or present mining activity and the Properties do not include any land that is currently used or has been used during the Company's occupation of the Properties by members of the public for recreational purposes whether with or without the Company's permission.
20. The Company is not engaged in any dispute with any adjoining or neighbouring owner with respect to boundary walls and fences, or with respect to any easement right or means of access to the Properties and the Warrantors are not aware of any circumstances

which may give rise to such a dispute.

21. So far as the Warrantors are aware no part of any Property has been affected during the Company's period of occupation by the leaching from adjoining premises or land of chemicals, contaminated water or other liquids or other harmful substances or the migration of gases arising solely from the Company's use and occupation.
22. The Property is insured:
  - 22.1 for its full reinstatement value and associated costs;
  - 22.2 against third party and public liability claims to an adequate extent; and
  - 22.3 the interest of the Company has been noted against any policy of insurance taken out by the landlord and the rights of subrogation against the Company have been waived.
23. There is no breach of or failure to comply with the requirements of the Regulatory Reform (Fire Safety) Order 2005 in respect of the Properties.
24. Neither the Company nor any of the Warrantors have received an adverse surveyor's, engineer's or other professional's report in respect of any part of the Properties.
25. The Warrantors are not aware of any fact, matter or thing which would, or might reasonably affect, the willingness of a prudent tenant to take a lease of any Property.
26. Each Property enjoys main services of water, drainage, electricity, telephone and gas.
27. The Properties comprise all the land and buildings owned by the Company, occupied or used by the Company or its servants or agents for the purposes of the Company's business.
28. The Company is not and has not at any time since the date of its incorporation been the original lessee of any property other than the Properties and has not given a guarantee or entered into any direct covenant with either a lessor or assignor of any property.
29. The Company has paid the rent and materially observed and performed the covenants on the part of the tenant and the conditions contained in the leases and/or licences under which the Properties are held; and
  - 29.1 all such leases and/or licences are valid and in full force;
  - 29.2 all licences, consents and approvals required from the landlords or any superior landlords under any leases and/or licences of the Properties have been obtained; and
  - 29.3 the covenants on the part of the Company contained in such licences, consents and approvals have been duly performed and observed.
30. There are no rent reviews under the leases of the Properties held by the Company currently in progress and none are due in the 12 months immediately following Completion.
31. The Company is not for any reason anticipating the expenditure of any substantial sum of money in respect of the Properties.
32. The Company has not elected to waive the VAT exemption pursuant to paragraph 2 of schedule 10 VATA, and is not otherwise bound by any election in respect of any part of any Property. No part of any Property is currently standard rated for VAT purposes because of any new building or incomplete or new civil engineering works on that Property within the meaning of group 1 of schedule 9 VATA.

**SCHEDULE 8**  
**Company Intellectual Property**  
**Part 1 – Registered IPR**  
**Registered trade marks**

Mark	Number	Class(es)	Territory	Proprietor
Accupro	011247781	09, 40, 42	EC	The Company
Entellion	011247798	09, 40, 42	EC	The Company
Accutronics	011172137	09, 40, 42	EC	The Company
Intelligent Power Vault (#1)	UK00002575834	09	UK	The Company
Intelligent Power Vault (#2)	011253002	09, 40, 42	EC	The Company

**Applications for registered trade marks**

Mark	Number	Class(es)	Territory	Proprietor

**Registered designs**

Product/Design description	Number	Locarno class(es)	Territory	Proprietor
Lithium Iron Credit Card Battery	40231272	13-02-04, 13-02-17	UK	The Company
Intelligent Power Vault	002311787 0001 to 0008		EU	The Company
Lithium Iron Credit Card Battery	4021273	13-02-04, 13-02-07	UK	The Company
CMX Series of Batteries and Chargers	002837088 0001 to 0004	13-02	EC	The Company

**Applications for registered designs**

Product/Design description	Application number	Locarno class(es)	Territory	Proprietor

**Granted patents**

Title of invention	Patent number	Inventor	Territory	Proprietor

**Pending patent applications**

Title of invention	Patent application number	Inventor	Territory	Proprietor

**Part 2 – Unregistered Company Intellectual Property**

Product/ Articles	IP Route	Registration Status
8, 12 and 16 cell CMX series batteries and CX900 series chargers	EC Design	Ongoing
Intelligent Power Vault (including VR420)	USA Design	Ongoing

**Part 3 – Intellectual Property Agreements**

System	Version	Latest Version?	Renewal Date	Contract Mths	Length,
Sage200 ERP/ SageCRM	2011SP7	N	Dec-15	12	
Hosted Email	Exchange 2013	N	Jan-16	12	
Internet/Firewall	n/a	Y	Dec-17	36	
CAD Software	2016	Y	May-16	12	
Altium	2016	Y	Oct-16	12	
Office 365	n/a	Y	Feb-16	12	
Time & Attendance	2014	Y	Feb-16	12	
Sieki Scheduler	n/a	Y	May-15	12	
SQL Database	n/a	Y	Feb-16	12	
Windows Server	n/a	Y	Feb-16	12	
MS Visio	n/a	Y	Feb-16	12	
MS Project	n/a	Y	Feb-16	12	
Symantec AV	Endpoint 12.1	Y	Dec-16	36	
Symantec AV	Endpoint 12.1	Y	Jun-16	12	
Backup	n/a	Y	Jan-17	16	
Labview Developer	n/a	Y	Oct-16	12	
GFI LanGuard	2015	Y	Nov-15	12	
Sage Payroll	n/a	Y	Mar-16	12	
Smoothwall Web Filter	n/a	Y	Dec-17	36	
Virtual Hosting (Eng)	n/a	Y	n/a	1	
Survey Hosting (CS)	n/a	Y	n/a	1	
Website Hosting	n/a	Y	Mar-16	12	

There is a prospective agreement re: Powervault registration dispute

**Part 4 – Domain names**

Domain name	Proprietor	Renewal date
Accutronics.com	Accutronics	17/01/2017
Accutronics.co.uk	Accutronics	19/08/2017
Accutronics.de	Accutronics	30/04/2017
Accutronics.fr	Accutronics	30/04/2017
Accutronics.info	Accutronics	11/04/2016
Entellion.co.uk	Accutronics	11/04/2017
Vr420.com	Accutronics	11/04/2016
Vr420.co.uk	Accutronics	11/04/2016
Vr420.info	Accutronics	11/04/2016

Creditcardbattery.com	Accutronics	11/04/2016
Creditcardbattery.co.uk	Accutronics	11/04/2016
Creditcardbattery.info	Accutronics	11/04/2016
Accupro.co.uk	Accutronics	11/04/2017
lpv.uk.com	Accutronics	11/04/2016
Inspired-energy.eu	Accutronics	
Inspiredenergy.eu	Accutronics	
Smartbattery.co.uk	Accutronics	17/02/2018
Smart-batteries.co.uk	Accutronics	05/03/2017
Moltechpower.co.uk	Accutronics	11/02/2018
Batterytechnology.info	Accutronics	10/04/2016

## SCHEDULE 9

### Completion Accounts

#### Part 1 – Preparation and procedure

#### 1. COMPLETION ACCOUNTS

1.1 The Completion Accounts shall consist of:

- 1.1.1 a Working Capital statement as at the Completion Accounts Date (the **Working Capital Statement**) which shall be prepared in the format shown in the Pro-Forma Working Capital Statement set out in part 3 of this schedule;
- 1.1.2 a Net Indebtedness statement as at the Completion Accounts Date (the **Net Indebtedness Statement**) which shall be prepared in the format shown in the Pro-Forma Net Indebtedness Statement set out in part 4 of this schedule; and
- 1.1.3 the appropriate supporting schedules to the Working Capital Statement and the Net Indebtedness Statement.

1.2 As regards any specific item or amount, including the application of accounting judgment and discretion, the Completion Accounts shall be prepared:

- 1.2.1 in accordance with the Specific Accounting Policies;
  - 1.2.2 subject to that, in accordance with the Accounts Treatment;
  - 1.2.3 subject to that, in accordance with Accounting Practice; and
  - 1.2.4 taking into account any other adjustments as may be agreed in writing between the Buyer and the Sellers,
- and, for the avoidance of doubt, paragraph 1.2.1 prevails over paragraphs 1.2.2 and 1.2.3, and paragraph 1.2.2 prevails over paragraph 1.2.3.

#### 2. PROCEDURE

2.1 The Buyer shall use its reasonable endeavours to:

- 2.1.1 procure that the Buyer's Accountants prepare the Draft Completion Accounts as soon as reasonably practicable after Completion and, in any event, within 20 Business Days of Completion; and
- 2.1.2 deliver the Draft Completion Accounts to the Sellers' Representative within the period set out in paragraph 2.1.1.

2.2 The Buyer shall promptly give and shall procure that the Company shall promptly give such assistance and access to information as the Sellers' Accountants may reasonably require in connection with the review of the Draft Completion Accounts for the purpose of reviewing the Draft Completion Accounts.

2.3 The Sellers shall procure that within 20 Business Days of the date of receipt of the Draft Completion Accounts by the Sellers (the **Review Period**), the Sellers' Accountants shall notify the Buyer's Accountants whether or not they agree with the Completion Accounts, and the Net Indebtedness and Working Capital shown in those accounts.

2.4 If the Sellers' Accountants notify the Buyer's Accountants that they agree the Draft Completion Accounts, or if the Sellers' Accountants fail to notify the Buyer's Accountants that they do not agree the Draft Completion Accounts within the Review Period, the Draft Completion Accounts shall constitute the Completion Accounts and shall immediately become final and binding on the Parties for the purposes of this Agreement.

2.5 If the Sellers' Accountants do not agree the Draft Completion Accounts they shall, within the Review Period, give notice (an **Objection Notice**) to the Buyer's Accountants of all adjustments which they consider are required to ensure the Draft Completion Accounts comply with this schedule. Any adjustments proposed in the Objection Notice shall (to the extent reasonably practicable) be quantified, explained and properly documented in the Objection Notice. No further adjustments to the Draft Completion Accounts may be proposed or made by or on behalf of the Buyer or the Sellers after service of an Objection Notice and, to the extent not disputed in the Objection Notice, the Draft Completion Accounts shall be final and binding on the Buyer and the Sellers.

2.6 Following service of an Objection Notice within the Review Period, the Parties shall use their reasonable endeavours to agree the adjustments proposed in the Objection Notice as soon as possible. If those adjustments are resolved between the Parties, the Draft Completion Accounts, adjusted as agreed between the Parties, shall constitute the Completion Accounts and shall become final and binding on the Buyer and the Sellers upon such matters being agreed in writing by the Buyer and the Seller.

2.7 If the Buyer and the Sellers are unable to agree on any of the adjustments proposed in the Objection Notice within 20 Business Days of the Objection Notice being served on the Buyer, the adjustments in the Objection Notice which are still disputed (the **Disputed Adjustments**) shall be referred, at the request of either party, to an independent chartered accountant (the **Accountant**) for final determination. For the avoidance of doubt, no other matters may be referred to the Accountant for determination.

2.8 The Buyer and the Sellers shall agree the identity of the Accountant and the terms of his engagement in writing. If the Buyer and the Sellers fail to agree on the identity of the Accountant or the terms of his engagement within 10 Business Days of either party serving details of a suggested Accountant on the other, the Accountant shall be nominated by and engaged on such terms as may be specified by the President for the time being of the Institute of Chartered Accountants in England and Wales on the application at any time of either party.

2.9 The Accountant shall be instructed to:

- 2.9.1 prepare a written decision and give notice of that decision to the Parties within a maximum of 2 months of the matter being referred to him;
- 2.9.2 determine which of, and to what extent (if at all), the Disputed Adjustments should be made to the Draft Completion Accounts in order to ensure that those accounts comply with this schedule and, for the avoidance of doubt, the Accountant shall not consider or propose any adjustments to the Draft Completion Accounts other than the Disputed Adjustments; and
- 2.9.3 certify the amount of the Working Capital and Net Indebtedness as at the Completion Date based on the Draft Completion Accounts adjusted in accordance with paragraph 2.9.2.

2.10 The Buyer and the Sellers shall supply the Accountant with any information which he may reasonably request in connection with his

determination of the Disputed Adjustments. The Buyer and the Sellers shall be entitled to make written submissions to the Accountant in respect of the Disputed Adjustments provided that a copy of any such written submissions is also simultaneously delivered to the other party. The Accountant shall give due weight to any such written submission which is received by the Accountant within such time limit as he may determine and have notified to the Parties.

- 2.11 The decision of the Accountant (who shall be deemed to act as an expert and not as an arbitrator) shall be final and binding on the Buyer and the Sellers, save in the event of fraud or manifest error. The costs of the Accountant in connection with his determination shall be borne as he directs (taking into account the conduct of the Parties and the merits of their respective arguments in relation to the reference made to him) or, in the absence of any such direction, by the Buyer and the Sellers in equal shares.
- 2.12 The Working Capital and Net Indebtedness shown in the Completion Accounts agreed or determined in accordance with this schedule shall be the Working Capital and the Net Indebtedness for the purposes of clause 4.

### Part 2 – Specific accounting policies and procedures for the Completion Accounts

1. The Completion Accounts shall be prepared as if the accounting period ending at the close of business on the Completion Accounts Date were a financial year end of the Company.
2. The Completion Accounts shall be prepared on a going concern basis and no single item will be double-counted in any aspect of the calculation of the Working Capital and/or the Net Indebtedness.
3. In preparing the Completion Accounts the following Specific Accounting Policies and adjustments shall be applied as provided for in accordance with part 1 of this schedule:
  - 3.1 a provision of £185,000 plus insurance premium tax shall be made for the premium payable to Hunter George & Partners Limited in relation to the Buyer's insurance policy relating to the Warranties and the Tax Covenant;
  - 3.2 a provision of £143,351.00 shall be made for the outstanding liability due to <name redacted> pursuant to an agreement dated 8 January 2014 and made between <name redacted>, <name redacted> and the Company;
  - 3.3 a provision of £100,000 shall be included for staff bonuses;
  - 3.4 a provision for fees payable of £14,941.00 plus VAT, to Tufnol Composites Limited, a company that is connected to Mr P L Jackson;
  - 3.5 a provision of £107,786.14 in respect of the dividend payable to Catapult Growth Fund Limited Partnership;
  - 3.6 a provision relating to the payment of expenses and directors and monitoring fees to Catapult Growth Fund Limited Partnership and Intrinsic Equity Limited of £2,400 in the aggregate

### Part 3 – Pro-Forma Working Capital Statement

The Working Capital Statement shall be in the format set out below.

#### Current Assets

Total Stock & WIP	[•]
Prepayments/Other Debtors	[•]
Trade Debtors	[•]
Vat	[•]
<b>Total</b>	<b>[•]</b>

#### Current Liabilities

Trade Creditors	([•])
Prepaid Creditors	([•])
Accruals/Other Creditors	([•])
Peter Jackson Adjustment	[•]
Other Taxes	([•])
<b>Total</b>	<b>([•])</b>

<b>Net Working Capital</b>	<b>[•]</b>
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### Part 4 – Pro-Forma Net Indebtedness Statement

The Net Indebtedness Statement shall be in the format set out below.

Cash	[•]
<b>Less Debt Items:</b>	
ID Facility	([•])
Dividend Accrual	([•])
Peter Jackson	([•])
Other Loan Account	([•])
HP	([•])
Corporation Tax	([•])
WC adjustment	([•])
<b>Total</b>	<b>[•]</b>

### Part 5 – Permitted Payments

- Fees payable of £14,941.00 plus VAT, to Tufnol Composites Limited, a company that is connected to Mr P L Jackson
- The payment of the sum of £185,000 plus insurance premium tax to Hunter George & Partners Limited in relation to the Buyer's insurance policy relating to the Warranties and the Tax Covenant.
- A dividend of £107,786.14 payable to Catapult Growth Fund Limited Partnership.

- The payment of salary and expenses in the ordinary course to Robert Andrew Philipps and Michael Allen.

- The payment of expenses and directors and monitoring fees to Catapult Growth Fund Limited Partnership and Intrinsic Equity Limited of £2,400 in the aggregate.



**EXECUTED and DELIVERED as a DEED by ROBERT ANDREW PHILLIPS in the presence of:** ) /s/ Robert Andrew Phillips  
)  
)

Witness Signature

Witness Name

Address

Occupation

**EXECUTED and DELIVERED as a DEED by INTRINSIC EQUITY LIMITED acting by a director in the presence of:** ) /s/ James Grenfell  
) Director  
)

Witness Signature

Witness Name

Address

Occupation

**EXECUTED and DELIVERED as a DEED by MJF PENSION TRUSTEES LIMITED, as trustee of the Michael J Field SIPPS (P L Jackson a/c) in the presence of:** ) /s/ Michael J. Field  
) Director  
)  
)

Witness Signature

Witness Name

Address

Occupation

**EXECUTED and DELIVERED as a DEED by PETER LINDSEY JACKSON, as trustee of the Michael J Field SIPPS (P L Jackson a/c) in the presence of:** ) /s/ Peter Lindsey Jackson  
) Director  
)  
)

Witness Signature

Witness Name

Address

Occupation

**EXECUTED and DELIVERED as a DEED by MICHAEL ALLEN in the presence of:** ) /s/ Michael Allen  
)

Witness Signature

Witness Name

Address

Occupation

**EXECUTED and DELIVERED as a DEED by CATAPULT GROWTH FUND LIMITED PARTNERSHIP acting by its manager CATAPULT VENTURE MANAGERS LIMITED acting by a director and a director/authorised signatory** ) /s/ Duncan Cameron  
) Director  
)  
) /s/ Edward Wass  
) Director/Authorised signatory  
)

**EXECUTED and DELIVERED as a DEED by ULTRALIFE UK LIMITED acting by a director in the presence of:** ) /s/ Philip A. Fain  
) Director  
)

Witness Signature

Witness Name

Address

Occupation

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statements on Forms S-8 (Nos. 333-117662, 333-136737, 333-155349, 333-179235 and 333-203037) of our report dated March 2, 2016 on the consolidated financial statements of Ultralife Corporation for the year ended December 31, 2015, which appear in this Form 10-K.

/s/ Bonadio & Co., LLP  
Pittsford, New York  
March 2, 2016

I, Michael D. Popielec, certify that:

1. I have reviewed this annual report on Form 10-K of Ultralife Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 2, 2016

/s/ Michael D. Popielec

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Michael D. Popielec  
President and Chief Executive Officer

I, Philip A. Fain, certify that:

1. I have reviewed this annual report on Form 10-K of Ultralife Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 2, 2016

/s/ Philip A. Fain

Philip A. Fain  
Chief Financial Officer and Treasurer

## Section 1350 Certification

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 ("Section 906"), Michael D. Popielec and Philip A. Fain, the President and Chief Executive Officer and Chief Financial Officer and Treasurer, respectively, of Ultralife Corporation, certify that (i) the Annual Report on Form 10-K for the year ended December 31, 2015 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and (ii) the information contained in such report fairly presents, in all material respects, the financial condition and results of operations of Ultralife Corporation.

A signed original of this written statement required by Section 906 has been provided to Ultralife Corporation and will be retained by Ultralife Corporation and furnished to the Securities and Exchange Commission or its staff upon request.

Date: March 2, 2016

/s/ Michael D. Popielec

Michael D. Popielec  
President and Chief Executive Officer

Date: March 2, 2016

/s/ Philip A. Fain

Philip A. Fain  
Chief Financial Officer and Treasurer

This certification is being furnished as required by Rule 13a-14(b) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Section 1350 of Chapter 63 of Title 18 of the United States Code, and shall not be deemed "filed" for purposes of Section 18 of the Exchange Act or otherwise subject to the liability of that Section. This certification shall not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except to the extent that we specifically incorporate this certification by reference.