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

FORM 10-K

(Mark One)

☑ **Annual report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the fiscal year ended December 31, 2008

OR

o **Transition report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934**

For the transition period from

Commission file number 0-20852

ULTRALIFE CORPORATION

(Exact name of registrant as specified in its charter)

Delaware	16-1387013
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
2000 Technology Parkway, Newark, New York	14513
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (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	The Nasdaq Global Market

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

Indicate by check mark whether the Registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes o 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 o 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 o

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 Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☑

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

Large accelerated filer o	Accelerated filer ☑	Non-accelerated filer o (Do not check if a smaller reporting company)	Smaller reporting company o

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

On June 28, 2008, the aggregate market value of the Common Stock of Ultralife Corporation held by non-affiliates of the Registrant was approximately $142,000,000 (in whole dollars) based upon the closing price for such Common Stock as reported on the NASDAQ Global Market on June 27, 2008.

As of March 1, 2009, the Registrant had 17,207,595 shares of Common Stock outstanding, net of 1,043,660 treasury shares.

DOCUMENTS INCORPORATED BY REFERENCE

Part III Ultralife Corporation Proxy Statement — Certain portions of the Registrant's Definitive Proxy Statement relating to the June 9, 2009 Annual Meeting of Shareholders are specifically incorporated by reference in Part III, Items 10-14 herein, except for the equity plan information required by Item 12 as set forth therein.

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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, future demand for our products and services, addressing the process of U.S. defense procurement, the successful commercialization of our products, the successful integration of our acquired businesses, general domestic and global economic conditions, including the recent distress in the financial markets that has had an adverse impact on the availability of credit and liquidity resources generally, government and environmental regulation, finalization of non-bid government contracts, competition and customer strategies, technological innovations in the non-rechargeable and rechargeable battery industries, changes in our business strategy or development plans, capital deployment, business disruptions, including those caused by fires, raw material supplies, environmental regulations, and other risks and uncertainties, certain of which are beyond our control. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may differ materially from those forward-looking statements described herein as anticipated, believed, estimated or expected or words of similar import. For further discussion of certain of the matters described above, see "Risk Factors" in Item 1A of this annual report.

As used in this annual report, unless otherwise indicated, the terms "we", "our" and "us" refer to Ultralife Corporation (formerly Ultralife Batteries, Inc.) and include our wholly-owned subsidiaries, Ultralife Batteries (UK) Ltd., McDowell Research Co., Inc., ABLE New Energy Co., Limited and its wholly-owned subsidiary ABLE New Energy Co., Ltd, RedBlack Communications, Inc. (formerly Innovative Solutions Consulting, Inc.), Stationary Power Services, Inc. and RPS Power Systems, Inc. (formerly Reserve Power Systems, Inc.), and our majority owned subsidiary 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 portable and standby 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, standby power systems, communications and electronics systems and accessories, and custom engineered systems, solutions and services.

We sell our products worldwide through a variety of trade channels, including original equipment manufacturers ("OEMs"), industrial and retail distributors, national retailers and directly to U.S. and international defense departments. We enjoy strong name recognition in our markets under our Ultralife® Batteries, McDowell Research®, RedBlack™ Communications, Stationary Power Services™, U.S. Energy Systems™, RPS Power Systems™ and ABLE™ brands. We have sales, operations and product development facilities in North America, Europe and Asia.

We report our results in four operating segments: Non-Rechargeable Products, Rechargeable Products, Communications Systems and Design and Installation Services. The Non-Rechargeable Products segment includes: lithium 9-volt, cylindrical and various other non-rechargeable batteries. The Rechargeable Products segment includes: rechargeable batteries, charging systems, uninterruptable power supplies and accessories, such as cables. The Communications Systems segment includes: power supplies, cable and connector assemblies, RF amplifiers, amplified speakers, equipment mounts, case equipment and integrated communication system kits. The Design and Installation Services segment includes: standby power and communications and electronics systems design, installation and maintenance activities and revenues and related costs associated with various development contracts. We look at our segment performance at the gross margin level, and we do not allocate research and development or selling, general and administrative costs against the segments. All other items that do not specifically relate to these four segments and are not considered in the performance of the segments are considered to be Corporate charges. (See Note 10 in the Notes to Consolidated Financial Statements.)

We continually evaluate various ways to grow, including opportunities to expand through mergers, acquisitions and business partnerships. On May 19, 2006, we acquired 100% of the equity securities of ABLE New Energy Co., Ltd.

("ABLE"), an established manufacturer of lithium batteries. ABLE is located in Shenzhen, China. On July 3, 2006, we finalized the acquisition of substantially all the assets of McDowell Research, Ltd. ("McDowell"), a manufacturer of military communications accessories. McDowell was located originally in Waco, Texas, with the operations having been relocated to the Newark, New York facility during the second half of 2007. On September 28, 2007, we finalized the acquisition of all of the issued and outstanding shares of common stock of RedBlack Communications, Inc. ("RedBlack"), a provider of a wide range of engineering and technical services for communication electronic systems to government agencies and prime contractors. RedBlack is located in Hollywood, Maryland. On November 16, 2007, we completed the acquisition of all of the issued and outstanding shares of common stock of Stationary Power Services, Inc. ("Stationary Power"), an infrastructure power management services firm specializing in engineering, installation and preventative maintenance of standby power systems, uninterruptible power supply systems, DC power systems and switchgear/control systems for the telecommunications, aerospace, banking and information services industries. Stationary Power is located in Clearwater, Florida. On November 16, 2007, we completed the acquisition of all of the issued and outstanding shares of common stock of RPS Power Systems, Inc. ("RPS"), an affiliate of Stationary Power, and a supplier of lead acid batteries primarily for use by Stationary Power in the design and installation of standby power systems. 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. On November 10, 2008, we acquired certain assets of U.S. Energy Systems, Inc. and its services affiliate, U.S. Power Services, Inc. ("USE" collectively), a nationally recognized standby power installation and power management services business. USE is located in Riverside, California. (See Note 2 in the Notes to Consolidated Financial Statements for additional information.)

Our website address is www.ultralifecorp.com. We make available free of charge via a hyperlink on our website our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and any amendments to those reports 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 Peter F. Comerford, 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 or at the SEC Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549 or by calling 1-800-SEC-0330.

Non-Rechargeable Products

We manufacture and/or market a family of lithium-manganese dioxide ($Li-MnO_2$) non-rechargeable batteries including 9-volt, HiRateÒ cylindrical, Thin CellÒ, and other chemistries and form factors. We also manufacture and market a family of lithium-thionyl chloride ($Li-SOCl_2$) non-rechargeable batteries produced by our ABLE operating unit. Applications for our 9-volt batteries include: smoke alarms, wireless security systems and intensive care monitors, among many other devices. Our HiRate and Thin Cell 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, automotive telematics, 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 goggles, targeting devices, chemical agent monitors and thermal imaging equipment. Our lithium-thionyl chloride batteries, sold under our ABLE brand as well as various private label brands, 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: 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 for 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.

Revenues for this segment for the year ended December 31, 2008 were $68,076 and segment contribution was $10,791.

Rechargeable Products

We believe that our range of lithium ion rechargeable batteries and chargers offer substantial benefits, including the ability to design and produce lightweight batteries in a variety of custom sizes, shapes, and thickness. We market lithium ion rechargeable batteries comprised of 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. We believe that the chemistry of our lithium ion batteries provides significant advantages over other currently

available rechargeable batteries. These advantages include lighter weight, longer operating time, longer time between charges and a wider operating temperature range. Conventional rechargeable batteries, nickel metal hydride and nickel cadmium, are heavier, have lower energy and require more frequent charging. Additionally, we offer lead-acid batteries and uninterruptable power supplies, sold under our RPS Power Systems brand, and other brands, for the standby power market. Products include standby batteries and uninterruptable power supplies for use in telecommunications, banking, aerospace and information services industries.

Revenues for this segment for the year ended December 31, 2008 were $34,691 and segment contribution was $6,818.

Communications Systems

Under our McDowell Research brand, we design and manufacture a line of communications systems and accessories to support military communications systems including power supplies, power cables, connector assemblies, RF amplifiers, amplified speakers, equipment mounts, case equipment and integrated communication systems such as tactical repeaters and SATCOM-On-The-Move systems. Products include field deployable systems, which operate from wide-ranging AC and DC sources using a basic building block approach, allowing for a quick response to specialized applications. All systems are packaged to meet specific customer needs in rugged enclosures to allow for their use in severe environments. We market these products to all branches of the U.S. military, approved foreign defense organizations, and U.S. and international prime defense contractors.

Revenues for this segment in the year ended December 31, 2008 were $136,072 and segment contribution was $36,805.

Design and Installation Services

These services include the design, installation, integration and maintenance of both communications electronics and standby power systems. Within this segment, we also seek to fund the development of new products to advance our technologies through contracts with both government agencies and third parties. We have been successful in obtaining awards for such programs for power-system technologies.

We continue to obtain contracts that are in parallel with our efforts to ultimately commercialize 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 in the year ended December 31, 2008 were $15,861 and segment contribution was $2,529.

Corporate

We allocate revenues and cost of sales across 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 in the year ended December 31, 2008 and corporate contribution was a loss of $39,638.

See Management's Discussion and Analysis of Financial Condition and Results of Operations and the 2008 Consolidated Financial Statements and Notes thereto for additional information. For information relating to total assets by segment, revenues for the last three years by segment, and contribution by segment for the last three years, see Note 10 in the Notes to Consolidated Financial Statements.

History

We were 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 June 1994, we formed a subsidiary, Ultralife Batteries (UK) Ltd. ("Ultralife UK"), which acquired certain assets of the Dowty Group PLC ("Dowty") and provided us with a presence in Europe. In May 2006, we acquired ABLE, an established manufacturer of lithium batteries located in Shenzhen, China, which broadened our product offering and provided additional exposure to new markets. In July 2006, we finalized the acquisition of substantially all the assets of McDowell, a manufacturer of military

communications accessories located originally in Waco, Texas, with the operations having been relocated to the 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 September 2007, we acquired RedBlack, located in Hollywood, Maryland, an engineering and technical services firm specializing in the design, integration, and fielding of mobile, modular, and fixed-site communication and electronic systems. The acquisition provided a natural extension to our communications systems business and opened another channel of distribution for our broad portfolio of communications systems, accessories and portable power products. In November 2007, we acquired Stationary Power and RPS, affiliated companies both located in Clearwater, Florida. Stationary Power is an infrastructure power management services firm specializing in the engineering, installation and preventive maintenance of standby power systems, uninterruptible power supply systems, DC power systems and switchgear/control systems for the telecommunications, aerospace, banking and information services industries. RPS supplies lead acid batteries for use in the design and installation of standby power systems. The Stationary Power acquisition furthered our transformation to a value-added power solutions, accessories and engineering services company serving a broad spectrum of government, defense and commercial markets. In November 2008, we acquired certain assets of USE, a nationally recognized standby power installation and power management services business located in Riverside, California. The acquisition was made to advance our goal of becoming the leading provider of engineering, installation, integration and maintenance services to the growing standby power industry.

Products, Services and Technology

Non-Rechargeable Products

A non-rechargeable battery is used until discharged and then discarded. 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-thionyl chloride and magnesium-silver chloride technologies.

Our non-rechargeable battery products are based predominantly on lithium-manganese dioxide 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 outage 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 price competitive with other battery technologies on a price per watt-hour basis.

Our non-rechargeable products include the following product configurations:

9-Volt Lithium Battery. Our 9-volt lithium battery delivers a unique combination of high energy 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 watt-hour 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, medical and music/audio. Significant applications include: smoke alarms, wireless alarm systems, bone growth stimulators, telemetry devices, blood analyzers, ambulatory infusion pumps, parking meters, wireless audio devices and guitar pickups. A significant portion of the sales of our 9-volt battery is to major U.S. and international 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 international companies. Additionally, we sell our 9-volt battery to the broader consumer market through national and regional retail chains and Internet retailers.

We believe that we manufacture the only standard size 9-volt battery warranted to last 10 years when used in ionization-type smoke alarms. Although designs exist using other battery configurations, such as three 2/3 A or 1/2 AA-type battery cells, we believe that our 9-volt solution is superior to these alternatives. Our current 9-volt battery manufacturing capacity is adequate to meet forecasted customer demand.

Cylindrical Batteries. Featuring high energy, wide temperature range, long shelf life and operating life, our cylindrical cells and batteries, based on both lithium-manganese dioxide 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_2 BA-5590 battery, and one of the most widely used batteries 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.

We market our line of lithium cells and batteries to the OEM market for commercial, defense, medical, automotive, asset tracking and search and rescue applications, among others. Significant commercial applications include pipeline inspection equipment, autoreclosers 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. Automotive applications include: telematics, tire-pressure monitoring and engine electronics 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 brand. Thin Cell batteries are flat, light weight batteries providing a unique combination of high energy, long shelf life, wide operating temperature range and light weight. With their thin prismatic form and a high ratio of active materials to packaging, Thin Cell batteries can efficiently fill most battery cavities. We are currently marketing these batteries to OEMs for applications such as displays, wearable medical devices, theft detection systems, and RFID devices.

Rechargeable Products

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 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, lithium-ion and lithium-polymer-based batteries. Rechargeable batteries can be 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 electrical energy per unit volume stored in a battery. High energy density batteries generally are longer lasting power sources providing longer operating time and necessitating fewer battery recharges. Lithium 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 cycle life is a preferred feature of a rechargeable battery because it allows the user to charge and recharge many times before noticing a difference in performance.

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 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. Long achievable cycle life, particularly in combination with high energy density, is suitable for applications requiring frequent battery recharges, such as cellular telephones and portable computers. We believe that our lithium ion batteries generally have the highest energy density and longest cycle life.

Lithium Ion Cells and Batteries. We offer a variety of lithium ion cells and batteries. These products are used in a wide variety of applications including communications, medical and other portable electronic devices.

Lead-Acid Batteries. We offer a variety of lead-acid batteries primarily for use in the design and installation of standby power systems. These products include standby batteries and uninterruptable power supplies for use in telecommunications, banking, aerospace and information services industries.

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.

Communications Systems

We design and manufacture communications systems and accessories, through our McDowell Research brand, to support military communications systems including power supplies, RF amplifiers, battery chargers, amplified speakers, equipment mounts, case equipment and integrated communication systems. We specialize in field deployable power systems, which operate from wide-ranging AC and DC sources using a basic building block approach, allowing for a quick response to specialized applications. We package all systems to meet specific customer needs in rugged enclosures to allow their use in severe 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:

Integrated Systems. Our integrated systems include: SATCOM-On-The-Move (“SOTM”); ruggedized deployable case systems; multiband transceiver kits and HF transceiver kits; briefcase power systems; dual transceiver cases; enroute communications cases; four radio cases; and tactical repeater systems. These systems give communications operators everything that is needed to provide reliable links to support C4I (Command, Control, Communications, Computers and Information systems).

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

RF Amplifiers. Our RF amplifiers include: 20 and 100-watt multiband (30 — 512 MHz) and 50 watt VHF RF (30 — 90 MHz) amplifiers. These amplifiers are used to extend the range of manpack and handheld tactical transceivers and can be used on mobile or fixed site applications.

Design and Installation Services

Our design and installation services focus on standby power system design, installation and maintenance, integrating communications equipment and power systems for maximum mobility and optimum customer utility. These include equipment installations in commercial, defense and law enforcement applications, including vehicles for satellite communications, engineering services, upgrading current fleet vehicles and integrated logistics and project management support.

Communications and Electronics. Our communications and electronics services include the design, integration, fielding and life cycle management of portable, mobile and fixed-site communications systems. Capabilities include engineering, rapid prototyping, systems integration and logistics support.

Standby Power. Our standby power services provide mission critical solutions to a broad range of applications in the telecommunications, aerospace, banking and information services industries involving the installation and preventive maintenance of standby power systems, uninterrupted power supply systems, DC power systems and switchgear/control systems.

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

Sales and Marketing

We employ a staff of sales and marketing personnel in North America, Europe and Asia. We sell our current 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 particular areas. 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 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 companies within the automotive industry. 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. We do not believe our sales are seasonal.

During the year ended December 31, 2008, we had two major customers, Raytheon Company and Port Electronics Corp., which comprised 29% and 16% of our revenue, respectively. During the year ended December 31, 2007, we had three major customers, the U.S. Department of Defense, the U.K. Ministry of Defence and Raytheon Company, which comprised 14%, 12%, and 13% of our revenue, respectively. During the year ended December 31, 2006, we had one major customer, the U.S. Department of Defense, which comprised 20% of our revenue. We believe that the loss of these customers could have a material adverse effect on us. We believe that we currently have good relationships with these customers.

In 2008, sales to U.S. and non-U.S. customers were approximately $205,400 and $49,300, respectively. For information relating to revenues by country for the last three years and long-lived assets for the last three years by country of origin, see Note 10 in the Notes to Consolidated Financial Statements.

Non-Rechargeable Products

We target sales of our non-rechargeable products to manufacturers of security and safety equipment, automotive telematics, 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. 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 qualification testing for the products under contract by the military. An inability by us to pass these tests in a timely fashion could have a material adverse effect on our business, financial condition and results of operations. 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 have been successfully marketing our products to defense organizations in the U.S. and other countries. These efforts have resulted in us winning significant contracts. For example, in December 2004, we were awarded 100% of the Next Gen II Phase IV battery production contracts by the U.S. Defense Department to provide five types of non-rechargeable lithium-manganese dioxide batteries to the U.S. Army. Combined, these batteries comprise what is called the Rectangular Lithium Manganese Dioxide Battery Group. The government awarded 60 percent to our U.S. operation and 40 percent to our U.K operation. The contract provides for order releases over a five-year period with a maximum potential value of up to $286,000. Orders under this contract are dependent upon the demand for these batteries by end users and inventory stocking strategies, among other things. Through December 31, 2008, we have received orders for deliveries under this contract totaling $28,800. This contract is set to expire by the end of 2009. In February 2005, we were awarded a five-year production contract by the U.S. Defense Department, with a maximum total potential of $15,000, to provide our BA-5347/U non-rechargeable lithium-manganese dioxide batteries to the U.S. military. The contract value represented 60 percent of a small business set-aside award. Production deliveries began in the first quarter of 2006. Through December 31, 2008, we have received orders for deliveries under this contract totaling $9,847.

At December 31, 2008 and 2007, our backlog of non-rechargeable products was approximately $23,300 and $15,300, respectively. The majority of the 2008 backlog was related to orders that are expected to ship throughout 2009.

Rechargeable Products

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 seek design wins with 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 target sales of our lead-acid rechargeable batteries through direct sales to customers in the telecommunications, banking, aerospace and information services industries.

We continue to expand our marketing activities as part of our strategic plan to increase sales of our rechargeable products for commercial, stand-by, 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, 2008 and 2007, our backlog related to rechargeable products was approximately $9,700 and $7,500, respectively. The majority of the 2008 backlog was related to orders that are expected to ship throughout 2009.

Communications Systems

We target sales of our communications systems, which include power solutions and accessories to support communications systems such as battery chargers, power supplies, power cables, connector assemblies, RF amplifiers, amplified speakers, equipment mounts, case equipment and integrated communication systems, to military OEMs and U.S. and international government organizations. 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. These efforts resulted in a number of significant contracts for us. For example, in September 2007, we were awarded a $24,000 contract from Raytheon Company to produce and supply SOTM satellite communications systems for installation on Mine Resistant Ambush Protected (“MRAP”) armored vehicles. In December 2007, we received two separate orders valued at $62,000 and $40,000, from U.S. defense contractors to supply advanced communications systems.

At December 31, 2008 and 2007, our backlog related to communications systems orders was approximately $4,400 and $115,500, respectively. The majority of the 2008 backlog was related to orders that are expected to ship throughout 2009.

Design and Installation Services

We continue to expand our sales and marketing activities to increase sales of our design and installation services for communications electronics systems and standby power applications. We provide our services directly to defense organizations, government agencies and commercial customers in the telecommunications, aerospace, banking and information services industries.

At December 31, 2008 and 2007, our backlog related to design and installation services was approximately $6,000 and $3,600, respectively. The majority of the 2008 backlog was related to services that are expected to be performed throughout 2009.

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 commercial position. Although we seek to protect our proprietary information, there can be no assurance that others will not either develop the same or similar information independently or obtain access to our proprietary information, despite our efforts to protect such 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 is more dependent on the knowledge, ability, experience and technological expertise of our employees, as opposed to the legal protection that our patents and other proprietary rights may or will afford.

We hold twelve patents in the U.S. and foreign countries. Our patents protect technology that makes automated production more cost-effective and protect important competitive features of our products. However, we do not consider our business to be dependent on patent protection.

In 2003, we entered into an agreement with Saft Groupe S.A. to license certain tooling for certain BA-5390 battery cases. The licensing fee associated with this agreement is essentially one dollar per battery case sold. The total royalty expense reflected in 2008 was $22. This agreement expires in the year 2017.

All of our employees in the U.S. and all our key employees involved with our technology in England and China are required to enter into agreements providing for confidentiality 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.

The following are registered trademarks or trademarks of ours: Ultralifeâ, Ultralife Thin Cellâ, Ultralife HiRateâ, Ultralife Polymerâ, The New Power GenerationÒ, LithiumPowerÒ, SmartCircuitÒ, PowerBugÒ, We Are PowerÒ, ABLEÔ, RedBlack™, RPS Power Systems™, Stationary Power Systems™, U.S. Energy Systems™, 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. We have ISO 9001:2000 certification for our manufacturing facilities in Newark, New York, Abingdon, England, and Shenzhen, China. In addition, our manufacturing facilities in Newark, New York and Shenzhen, China are ISO 14001 certified.

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

Non-Rechargeable Products

Our Newark, New York facility has the capacity to produce approximately nine million 9-volt batteries per year and approximately fourteen million cylindrical cells per year. Our manufacturing facility in Abingdon, England is capable of producing approximately two million cylindrical cells per year. Capacity, however, is also related to individual operations and product mix changes can produce bottlenecks in an individual operation, constraining overall capacity. Our ABLE operating unit in Shenzhen, China is capable of producing approximately five million cylindrical cells per year and approximately 500,000 thin cells per year. We have acquired new machinery and equipment in areas where production bottlenecks have resulted in the past and 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 in our current manufacturing capacity will be adequate to meet foreseeable customer demand. However, with unanticipated growth in demand for our products, demand could exceed capacity, which would require us to install additional capital equipment to meet these incremental needs, which in turn may require us to lease or contract additional space to accommodate such needs.

We utilize lithium foil as well as other metals and chemicals to manufacture our batteries. Although we know of only three major suppliers that extrude lithium into foil and provide such foil in the form required by us, we do not anticipate any shortage of lithium foil or any difficulty in obtaining the quantities we require. 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, none of such interruptions has had a material adverse effect on us. 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. As energy costs rise, we continue to seek ways to reduce these 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.

The total carrying value of our non-rechargeable products inventory, including raw materials, work in process and finished goods, amounted to approximately $13,475 as of December 31, 2008.

Rechargeable Products

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 that could replace materials 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 segment generally assembles battery packs and chargers and is limited only by physical space and is not constrained by manufacturing equipment capacity. In addition, our facility in Abingdon, England has the capacity to produce significant volumes of rechargeable batteries and chargers.

The total carrying value of our rechargeable products inventory, including raw materials, work in process and finished goods, amounted to approximately $10,820 as of December 31, 2008.

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 and integration kits, are available from many sources. Although we believe that alternative sources are available to supply materials that could replace materials 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 communications accessories and systems, as this operation generally assembles products and is limited only by physical space and is not constrained by manufacturing equipment capacity.

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

Our Woodinville, Washington facility has the capacity to produce communications accessories 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 $12,428 as of December 31, 2008.

Design and Installation Services

We believe that the raw materials and components utilized for our standby power installations are readily available from many sources. Although we believe that alternative sources are available to supply materials that could replace materials 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.

The total carrying value of our design and installation services inventory, including raw materials, work in process and finished goods, amounted to approximately $3,742 as of December 31, 2008.

Research and Development

We concentrate significant resources on research and development activities to improve upon our technological capabilities and to design new products for customers' applications. We conduct our research and development in Newark, New York, Shenzhen, China and Woodinville, Washington. During 2008, 2007 and 2006 we expended approximately $8,100, $7,000 and $5,100, respectively, on research and development. We expect that research and development expenditures in the future will be modestly higher than those in 2008, as 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.

Non-Rechargeable Products

We continue to develop non-rechargeable cells and batteries that broaden our product offering to our customers.

Rechargeable Products

We continue to develop our rechargeable product portfolio, including batteries, cables and charging systems, as our customers' needs continue to grow for portable power.

Communications Systems

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

Design and Installation Services

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.

We work to receive contracts with defense contractors and commercial customers. For example, in February 2004, we announced that we received a development contract from General Dynamics valued at approximately $2,700. The contract was for lithium non-rechargeable and lithium ion rechargeable batteries, as well as vehicle and soldier-based chargers for the Land Warrior-Stryker Interoperable (LW-SI) program. In 2005, we received an added scope award of this project, increasing the total project to approximately $4,000. Additionally, purchase orders have been received for the products developed under this contract as the batteries have become commercialized. In 2005, we were awarded various development contracts, including the development of a rechargeable battery for a portable radio. In 2006, we completed the General Dynamics contract work and were awarded several small development contracts for rechargeable product development and new generation high-powered cells.

In January 2008, we entered into a technology partnership with Mississippi State University ("MSU") to develop fuel cell-battery portable power systems enabling lightweight, long endurance military missions. The development of this power system is to be performed under a $1,600 program that was awarded by a U.S. Defense Department agency to MSU as the prime contractor. MSU has awarded us a $475 contract to participate in this program as a subcontractor. Under the contract, we will oversee the development, testing, approval and manufacturing of prototypes of a new compact military battery to be used with handheld tactical radios, building on its ongoing development work under the Land Warrior System Stryker Interoperable Program. In addition, we established a development and assembly operation in a 14,000 square-foot facility located in West Point, Mississippi to manufacture products coming out of the technology partnership and other of our products.

Safety; Regulatory Matters; Environmental Considerations

Certain of the materials utilized in our batteries may pose safety problems if improperly used. 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 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. New regulations that pertain to all lithium battery shippers went into effect in October 2008 and January 2009, and additional regulations will go into effect in 2010. The 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 have a material adverse effect on our business, financial condition and results of operations.

Our RPS lead acid products have been tested and have been deemed to meet all requirements as specified in 49 CFR 173.159 (d) for exception as hazardous material classification. Our RPS lead acid batteries have been tested and have been deemed to meet all requirements as specified in the special provision 238 for determination of “Non-Spillable” and are not subject to the provision of 49 CFR 173.159 (d).

The European Union’s Restriction of Hazardous Substances (“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 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. 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.

China’s “Management Methods for Controlling Pollution Caused by Electronic Information Products Regulation” (“China RoHS”) provides a two-step, broad regulatory framework including similar hazardous substance restrictions as are imposed by the European Union’s RoHS Directive, and apply 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 affecting a broad range of electronic products and parts, with an implementation date of March 1, 2007. 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 OEM’s for use in other EIP. Our sales in China are limited to sales to OEM’s and to distributors who supply to OEM’s. Should our sales strategy change to include direct sales to end-users, 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 substantial 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 how these regulations will affect us or our customers, that could have a material adverse effect on our business, financial condition and results of operations. In 2008, we spent approximately $447 on environmental controls, 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, Abingdon, England and Shenzhen, China facilities contain dry rooms or glove box equipment, as well as specialized air-drying equipment.

Non-Rechargeable 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 insurance, including business interruption insurance, to protect against 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, and the 9-volt battery and a range of 3-volt cells are recognized under the Underwriters Laboratories, Inc. Component Recognition Program.

Rechargeable Products

We are not currently aware of any regulatory requirements regarding the disposal of lithium ion rechargeable cells and batteries.

Our lead acid batteries are recovered from our customers and delivered to a permitted lead smelter for reclamation following applicable federal, state and local regulations.

Communications Systems

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

Design and Installation Services

Our RPS lead acid products have been tested and have been deemed to meet all requirements as specified in 49 CFR 173.159 (d) for exception as hazardous material classification. Our RPS lead acid batteries have been tested and have been deemed to meet all requirements as specified in the special provision 238 for determination of “Non-Spillable” and are not subject to the provision of 49 CFR 173.159 (d).

Corporate

Please refer to the description of the environmental remediation for our Newark, New York facility set forth in Item 3, Legal Proceedings of this report.

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 those offering standby power installation services, and companies producing communications systems, design and installation services. We compete on the basis of design flexibility, performance and reliability. There can be no assurance that our technologies and products will not be rendered obsolete by developments in competing technologies that are currently under development or that may be developed in the future or that our competitors will not market competing products 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 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 batteries require large capital expenditures, which may deter new entrants from commencing production. Through our experience in battery manufacturing, we have also developed expertise, which we believe would be difficult to reproduce without substantial time and expense in the non-rechargeable battery market.

Competition in the standby power market is concentrated among a number of suppliers and installers ranging from small distributors who purchase, resell and install products manufactured by others to major battery and power supply manufacturers, which have financial, technical, marketing, sales, manufacturing, distribution and other resources significantly greater than those of ours. We compete on the basis of product and installation design, functionality, flexibility, performance, reliability and service. There can be no assurance that our technology and products will not be rendered obsolete by developments in competing technologies that are currently under development or that may be developed in the future or that our competitors will not market competing products that obtain market acceptance more rapidly than ours.

Employees

As of February 1, 2009, we employed a total of 1,191 permanent and temporary employees: 67 in research and development, 988 in production and 136 in sales and administration. Of the total, 893 are employed in the U.S., 15 in Europe and 283 in Asia. None of our employees is represented by a labor union. We consider our employee relations to be satisfactory.

ITEM 1A. RISK FACTORS

We face risks related to general domestic and global economic conditions.

In general, our operating results can be significantly affected by negative economic conditions, high labor, material and commodity costs and unforeseen changes in demand for our products and services. These risks are heightened as economic conditions globally have deteriorated significantly and may remain at recessionary levels for the foreseeable future. The current recessionary conditions could have a potentially significant negative impact on demand for our products and services, which may have a direct negative impact on our sales and profitability, as well as our ability to generate sufficient internal cash flows or access credit at reasonable rates to meet future operating expenses, service debt and fund capital expenditures.

We face risks related to the current credit crisis.

We currently generate sufficient operating cash flows, which combined with access to the credit markets, provides us with significant discretionary funding capacity. However, the recent disruption in credit markets, may impact demand for our products and services, as well as our ability to manage normal relationships with our customers, suppliers and creditors. Tighter credit markets could result in supplier or customer disruptions.

The potential bankruptcy of certain customers could leave us exposed to certain risks of collection of outstanding receivables. For example, approximately 5% of our business is associated with the automotive industry, which has recently experienced significant financial difficulties. If any of our customers declare bankruptcy, this could have a material adverse effect on our business, financial condition and results of operations.

We may be unable to obtain financing to fund ongoing operations and future growth.

While we believe that our revenue growth projections and our ongoing cost controls will allow us to generate cash and achieve profitability in the foreseeable future, there is no assurance as to when or if we will be able to achieve our projections. Our future cash flows from operations, combined with our accessibility to cash and credit, may not be sufficient to allow us to finance ongoing operations or to make required investments for future growth. In addition, recent significant orders have required us to ramp up our supply chain quickly, and this will result in a need for additional working capital. We may need to seek additional credit or access capital markets for additional funds. There is no assurance, given the current state of credit markets, that we would be successful in this regard.

We have certain debt covenants that must be maintained in accordance with the provisions of our credit facility. There is no assurance that we will be able to continue to meet these debt covenants in the future. If we default on any of our debt covenants and we are unable to renegotiate credit terms in order to comply with such covenants, this could have a material adverse effect on our business, financial condition and results of operations.

While we believe relations with our lenders are good and have received waivers as necessary in the past, there can be no assurance that such waivers will always be obtained when needed. In such case, we believe we have, in the aggregate, sufficient cash, cash generation capabilities from operations, working capital and financing alternatives at our disposal, including but not limited to alternative borrowing arrangements and other available lenders, to fund operations in the normal course for the foreseeable future. If we are unable to achieve our plans or unforeseen events occur, we may need to implement alternative plans to provide us with sufficient levels of liquidity and working capital. While we believe we could complete our original plans or alternative plans, if necessary, there can be no assurance that such alternatives would be available on acceptable terms and conditions or that we would be successful in our implementation of such plans.

A decline in demand for products or services using our batteries or communications systems could reduce demand for our products or services.

A substantial portion of our business depends on the continued demand for products or services using our batteries and communications systems sold by our customers, including OEM’s. Our success depends significantly upon

the success of those customers' products or services 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.

For instance, in the years ended December 31, 2006, 2007, 2008, 27%, 17% and 8% of our revenues, respectively, were comprised of sales of our 9-volt batteries, and of this, approximately 47%, 41% and 39%, respectively, pertained to sales to smoke alarm OEMs. If the retail demand for long-life smoke alarms decreases significantly, this could have a material adverse effect on our business, financial condition and results of operations.

Our customers may not meet the volume requirements 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, 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.

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 and services, we will be required to deliver large volumes of quality products and increased levels of services to customers on a timely basis at a reasonable cost to those customers. For example, the large contracts received from the U.S. military for our batteries using cylindrical cells could strain the current capacity capabilities of our manufacturing facilities and require additional equipment and time to build a sufficient support infrastructure. This demand could also create working capital issues for us, as we may need increased liquidity to fund purchases of raw materials and supplies. 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 have a strategy to grow our business through the acquisition of complementary businesses or through business partnerships, for example joint ventures, in addition to organic growth. Our inability to acquire such businesses, or increased competition for such businesses which could increase our acquisition costs, could adversely affect our growth strategy and results of operations. In addition, our inability to improve the operating margins of businesses we acquire or operate such acquired businesses profitably or to effectively integrate the operations of those acquired businesses could also adversely affect our business, financial condition and results of operations.

In 2006 we acquired McDowell and ABLE, in 2007 we acquired RedBlack, Stationary Power and RPS, and in 2008 we formed a joint venture in India and acquired USE, which added new facilities and operations to our overall business. We experienced some initial operational challenges at McDowell that required a greater amount of management's time to resolve than we expected. The integration of recent, and future, acquisitions could place an increased burden on our management team which could adversely impact our ability to effectively manage these businesses.

We also will 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.

Our acquisitions and business partnerships may not result in the revenue growth and profitability that we expect. In addition, we may not be able to successfully integrate our acquisitions.

We are integrating our acquisitions into our business and assimilating their operations, services, products and personnel with our management policies, procedures and strategies. We cannot be sure that we will achieve the benefits of revenue growth and profitability that we expect from these acquisitions or that we will not incur unforeseen additional costs or expenses in connection with the integration of these acquisitions. To effectively manage our expected growth, we must continue to successfully manage our integration of these companies and continue to improve our operational and

information technology systems, internal procedures, accounts receivable and management, financial and operational controls to accommodate these acquisitions. If we fail in any of these areas, our business could be adversely affected.

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 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 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 have had certain "exigent", non-bid contracts with the U.S. government that have been subject to an audit and final price adjustment, which have resulted in decreased margins compared with the original terms of the contracts. As of December 31, 2008, there were no outstanding exigent contracts with the government. As part of its due diligence, the government has conducted post-audits of the completed exigent contracts to ensure that information used in supporting the pricing of exigent contracts did not differ materially from actual results. In September 2005, the Defense Contracting Audit Agency ("DCAA") presented its findings related to the audits of three of the exigent contracts, suggesting a potential pricing adjustment of approximately $1,400 related to reductions in the cost of materials that occurred prior to the final negotiation of these contracts. We have reviewed these audit reports, have submitted our response to these audits and believe, taken as a whole, the proposed audit adjustments can be offset with the consideration of other compensating cost increases that occurred prior to the final negotiation of the contracts. While we believe that potential exposure exists relating to any final negotiation of these proposed adjustments, we cannot reasonably estimate what, if any, adjustment may result when finalized. In addition, in June 2007, we received a request from the Office of Inspector General of the Department of Defense ("DoD IG") seeking certain information and documents relating to our business with the Department of Defense. We are cooperating with the DoD IG inquiry and are furnishing the requested information and documents. At this time we have no basis for assessing whether we might face any penalties or liabilities on account of the DoD IG inquiry. The aforementioned DCAA-related adjustments could reduce margins and, along with the aforementioned DoD IG inquiry, could have an adverse effect on our business, financial condition and results of operation.

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 will continue to develop battery products, communications systems and services 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. Additionally, in these scenarios we are 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.

When a 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 a material adverse effect on our business, financial condition and results of operations.

A significant portion of our revenues is derived from certain key customers.

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, 2008, 2007 and 2006, approximately 75%, 67%, and 47% respectively, of our revenues were comprised of sales made directly or indirectly to the U.S. and foreign militaries. During the year ended December 31, 2008, we had two major customers, Raytheon Company and Port Electronics Corp., which comprised 29% and 16% of our revenue, respectively. During the year ended December 31, 2007, we had three major customers, the U.S. Department of Defense, the U.K. Ministry of Defence and Raytheon Company, which comprised 14%, 12%, and 13% of our revenue, respectively. During the year ended December 31, 2006, we had one major customer, the U.S.

Department of Defense, which comprised 20% of our revenue. There were no other customers that comprised greater than 10% of our total revenues during the years ended December 31, 2008, 2007 and 2006. While sales to these customers were substantial during the years ended December 31, 2008, 2007 and 2006, we do not consider these customers to be significant credit risks. Government decisions regarding military deployment and budget allocations to fund military operations may have an impact on the demand for our products and services. If the demand for products and services from the U.S. or foreign militaries were to decrease significantly, this could have a material adverse effect on our business, financial condition and results of operations.

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, except for our automotive industry customers. Approximately 5% of our business in 2008 was associated with the automotive industry, which has recently experienced significant financial difficulties. We have two customers that comprised 36% of our trade accounts receivables as of December 31, 2008. We have two customers that comprised 42% of our trade accounts receivable as of December 31, 2007. There were no other customers that comprised greater than 10% of our total trade accounts receivable as of December 31, 2008 and 2007. We do not normally obtain collateral on trade accounts receivable.

Our efforts to develop new commercial applications for our products could fail.

Although we are involved with developing certain products for new commercial applications, we cannot provide assurance that volume acceptance of our products will occur 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 these 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.

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 due to product malfunction or workmanship for a period up to one year from the date of purchase. With respect to our communications systems products, we typically offer up to a four-year warranty. We also offer a 10-year warranty on our 9-volt batteries that are used in ionization-type smoke alarms. With respect to the installation of our standby power systems, we offer a warranty over the installation, generally restrictive to meeting the customers' performance specifications. 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.

We are subject to certain safety risks, including the risk of fire, inherent in the manufacture and use 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. While we maintain what we believe to be sufficient casualty liability coverage to protect against such occurrences, these types of losses could have a material adverse effect on our business, financial condition and results of operation.

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. 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 how these regulations will affect us or our customers, that could have a material adverse effect on our business, financial condition and results of operations.

In conjunction with our purchase/lease of our Newark, New York facility in 1998, a consulting firm performed a Phase I and II Environmental Site Assessment, which revealed the existence of contaminated soil and ground water around one of the buildings. We have submitted various work plans to the New York State Department of Environmental Conservation (“NYSDEC”) regarding further environmental testing and sampling in order to determine the scope of any additional remediation. We subsequently met with the NYSDEC in March 2006 to discuss the results. On June 30, 2006, the Final Investigation Report was delivered to the NYSDEC by our outside environmental firm. In November 2006, the NYSDEC completed its review of the Final Investigation Report and requested additional groundwater, soil and sediment sampling. A work plan to address the additional investigation was submitted to the NYSDEC in January 2007 and was approved in April 2007. Additional investigation work was performed in May 2007. A preliminary report of results was prepared by our outside environmental consulting firm in August 2007 and a meeting with the NYSDEC and the New York State Department of Health (“NYSDOH”) took place in September 2007. As a result of this meeting, NYSDEC and NYSDOH have requested additional investigation work. A work plan to address this additional investigation was submitted to and approved by the NYSDEC in November 2007. Additional investigation work was performed in December 2007. Our environmental consulting firm has prepared and submitted a Final Investigation Report to the NYSDEC for review. The results of the additional investigation requested by the NYSDEC may increase the estimated remediation costs modestly. At December 31, 2008, we have reserved $52 for this matter. The ultimate resolution of this matter may result in us incurring costs in excess of what we have reserved.

The future regulatory direction of the European Union’s Restriction of Hazardous Substances (“RoHS”) and Waste Electrical and Electronic Equipment (“WEEE”) Directives, as they pertain to our products, is uncertain. Their potential impact to our business would become material if battery packs were to be included in new guidelines and we were unable to procure materials in a timely manner. Other associated risks related to these directives include excess inventory risk due to a write off of non-compliant inventory. We continue to monitor the regulatory activity of the European Union to ascertain such risks.

China’s “Management Methods for Controlling Pollution Caused by Electronic Information Products Regulation” (“China RoHS”) provides a two-step, broad regulatory framework, including similar hazardous substance restrictions as are imposed by the European Union’s RoHS Directive, and apply 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 affecting a broad range of electronic products and parts, with an implementation date of March 1, 2007. 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 EIP. 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, 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.

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.

The transportation of non-rechargeable and rechargeable 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. New regulations that pertain to all lithium battery shippers went into effect in October 2008 and January 2009, and additional regulations will go into effect in 2010. The 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 have a material adverse effect on our business, financial condition and results of operations.

Our RPS lead acid products have been tested and have been deemed to meet all requirements as specified in 49CFR 173.159 (d) for exception as hazardous material classification. Our RPS lead acid batteries have been tested and have been deemed to meet all requirements as specified in the special provision 238 for determination of “Non-Spillable” and are not subject to the provision of 49CFR 173.159 (d).

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 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. 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, and we cannot guarantee that we will not experience a material interruption of product 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 have a material effect on our business, financial condition and results of operations.

Any inability to protect our proprietary and intellectual property could allow our competitors and others to produce competing products based on our proprietary and intellectual property.

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. 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 pending applications, or that the claims allowed under any 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. If we are found to be infringing third party patents, there can be no assurance that we 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 shipment or the introduction of new products, and costly attempts to design around such patents could foreclose the development, manufacture or sale of products.

The loss of key personnel could significantly harm our business, and the ability and technical competence of persons we hire will be critical to the success of our business.

Because of the specialized, technical nature of our business, we are highly dependent on certain members of our management, marketing, engineering and technical staffs. The loss of these employees could have a material adverse effect on our business, financial condition and results of operations. In addition to developing manufacturing capacity to produce high volumes of batteries, we must attract, recruit and retain a sizeable workforce of technically competent employees. Our ability to pursue effectively our business strategy will depend upon, among other factors, the successful recruitment and retention of additional highly skilled and experienced managerial, marketing, 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 have a material adverse effect on our business, financial condition and results of operations.

We are subject to competition from other manufacturers and suppliers of portable and standby batteries, communications systems and services.

We compete with other manufacturers and suppliers of non-rechargeable and rechargeable portable and standby batteries, communications systems and services. We cannot assure that we will successfully compete with these manufacturers and suppliers, many of which have substantially greater financial, technical, manufacturing, distribution, marketing, sales and other resources.

Our products could become obsolete.

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 at the present time. 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, there will be a material adverse effect on our business, financial condition and results of operations.

We are subject to foreign currency fluctuations.

We maintain manufacturing operations in North America, Europe and Asia, 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. In addition, our foreign subsidiaries maintain their books in local currency, and the translation of those 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.

Our ability to use our Net Operating Loss Carryforwards in the future may be limited, which could have an adverse impact on our tax liabilities.

At December 31, 2008, we had approximately $58,400 of net operating loss carryforwards ("NOL's") 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, 2008, 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 a result, we have reflected a net deferred tax liability of $3,453 in the U. S. We have reflected a net deferred tax asset of $-0- in the U. K. and China due to our current assessment that it is more likely than not to not be realized. 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.

We have determined that a change in ownership, as defined under Internal Revenue Code Section 382, occurred in 2005 and 2006. As such, the domestic NOL carryforward will be subject to an annual limitation estimated to be in the range of approximately $12,000 to $14,500. This limitation did not have an impact on income taxes determined for 2008. Such a limitation could result in the possibility of a cash outlay for income taxes in a future year when earnings exceed the amount of NOL carryforwards that can be used by us. 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.

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, 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 or even our own guidance 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. These fluctuations, as well as general economic, political and market conditions, may have a material adverse effect on the market price of our common stock.

The re-payment of the debt outstanding under our credit facility and the vesting of options under certain of our equity compensation plans may both be accelerated if any single shareholder owns more than 30% of our stock. Currently, our largest shareholder owns in excess of 25% of our stock.

Our largest single shareholder is Grace Brothers, Ltd., which, as of its most recent Schedule 13D/A filing, beneficially owned 26.4% of our issued and outstanding shares of common stock. On June 6, 2007, Mr. Bradford T. Whitmore, general partner of Grace Brothers, Ltd., became a member of our Board of Directors. If Grace Brothers, Ltd. were to increase its ownership to more than 30%, it would be deemed a “change in control” for purposes of our credit facility administered by JP Morgan Chase and for purposes of options granted under our 2004 Amended and Restated Long Term Incentive Plan, or LTIP. If a “change in control” were to occur, our commercial lenders would be able to demand payment of all amounts outstanding under our existing credit facility and the vesting of all outstanding options granted under our LTIP would be accelerated resulting in a significant expense being charged against our income for the period during which the “change in control” occurred, all of which could have a material, adverse effect on our business, financial condition and results of operations.

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

Our operating facility in China presents risks including, but not limited to, political changes, civil unrest, labor disputes, currency restrictions and changes in currency exchange rates, taxes, duties, import and export laws and boycotts and other civil disturbances that are outside of our control. Any such disruptions could have a material adverse effect on our business, financial condition and results of operations.

We may be unable to adequately maintain and monitor our internal controls over financial reporting.

We maintain and monitor various internal control processes over our financial reporting. Whenever we acquire a new business or operations, we need to integrate those operations with our existing control processes, which can prove to be a challenge if the acquired business had not been required to have such controls in effect. We are in the process of integrating our recently acquired companies into our business and assimilating their operations, services, products and personnel with our management policies, procedures and strategies. While we work to ensure a stringent control environment, it is possible that we may fail to adequately maintain and monitor our various internal control processes over our financial reporting. Any such failure could result in internal control deficiencies that might be considered to be material weaknesses. Such material weaknesses in internal controls would be indicative of potential factors that affect the reliability of our financial statements and other reported financial information and impact the financial results we report.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

As of December 31, 2008, we own two buildings in Newark, New York comprising approximately 250,000 square feet. Our corporate headquarters are located in our Newark, New York facility. In addition, we lease approximately 35,000 square feet in a facility based in Abingdon, England and approximately 130,000 square feet in four buildings on one campus in Shenzhen, China. The Shenzhen, China campus location includes dormitory facilities. We also lease sales and administrative offices, as well as manufacturing and production facilities, in nine separate facilities across the U.S. and one in India. In addition, we lease a separate sales office in Shenzhen, China. Our research and development efforts for our battery products are conducted at our Newark, New York and Shenzhen, China facilities, while our research and development efforts for our communications accessories are conducted at our Newark, New York facility and our research and development efforts for our amplifier products are conducted at our facility in Woodinville, Washington. 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 continues to grow.

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 the financial position or results of our operations.

In conjunction with our purchase/lease of our Newark, New York facility in 1998, we entered into a payment-in-lieu of tax agreement, which provided us with real estate tax concessions upon meeting certain conditions. In connection with this agreement, a consulting firm performed a Phase I and II Environmental Site Assessment, which revealed the existence of contaminated soil and ground water around one of the buildings. We retained an engineering firm, which estimated that the cost of remediation should be in the range of $230. In February 1998, we entered into an agreement with a third party which provides that we and this third party will retain an environmental consulting firm to conduct a supplemental Phase II investigation to verify the existence of the contaminants and further delineate the nature of the environmental concern. The third party agreed to reimburse us for fifty percent (50%) of the cost of correcting the environmental concern on the Newark property. We have fully reserved for our portion of the estimated liability. Test sampling was completed in the spring of 2001, and the engineering report was submitted to the New York State Department of Environmental Conservation (“NYSDEC”) for review. NYSDEC reviewed the report and, in January 2002, recommended additional testing. We responded by submitting a work plan to NYSDEC, which was approved in April 2002. We sought proposals from engineering firms to complete the remedial work contained in the work plan. A firm was selected to undertake the remediation and in December 2003 the remediation was completed, and was overseen by the NYSDEC. The report detailing the remediation project, which included the test results, was forwarded to NYSDEC and to the New York State Department of Health (“NYSDOH”). The NYSDEC, with input from the NYSDOH, requested that we perform additional sampling. A work plan for this portion of the project was written and delivered to the NYSDEC and approved. In November 2005, additional soil, sediment and surface water samples were taken from the area outlined in the work plan, as well as groundwater samples from the monitoring wells. We received the laboratory analysis and met with the NYSDEC in March 2006 to discuss the results. On June 30, 2006, the Final Investigation Report was delivered to the NYSDEC by our outside environmental consulting firm. In November 2006, the NYSDEC completed its review of the Final Investigation Report and requested additional groundwater, soil and sediment sampling. A work plan to address the additional investigation was submitted to the NYSDEC in January 2007 and was approved in April 2007. Additional investigation work was performed in May 2007. A preliminary report of results was prepared by our outside environmental consulting firm in August 2007 and a meeting with the NYSDEC and NYSDOH took place in September 2007. As a result of this meeting, NYSDEC and NYSDOH have requested additional investigation work. A work plan to address this additional investigation was submitted to and approved by the NYSDEC in November 2007. Additional investigation work was performed in December 2007. Our environmental consulting firm has prepared and submitted a Final Investigation Report to the NYSDEC for review. The results of the additional investigation requested by the NYSDEC may increase the estimated remediation costs modestly. Through December 31, 2008, total costs incurred have amounted to approximately $227, none of which has been capitalized. At December 31, 2008 and December 31, 2007, we have $52 and $85, respectively, reserved for this matter.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None.

PART II

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

Market Information

Our common stock is included for quotation on the NASDAQ Global Market System under the symbol "ULBI."

The following table sets forth the quarterly high and low closing sales prices of our Common Stock during 2007 and 2008:

	Closing Sales Prices	
	High	Low
2007:		
Quarter ended March 31, 2007	$11.74	$ 8.04
Quarter ended June 30, 2007	10.57	9.00
Quarter ended September 29, 2007	12.86	10.57
Quarter ended December 31, 2007	20.75	12.19
2008:		
Quarter ended March 29, 2008	$22.69	$11.56
Quarter ended June 28, 2008	13.35	9.67
Quarter ended September 27, 2008	12.18	8.65
Quarter ended December 31, 2008	13.90	5.19

Holders

As of February 27, 2009, there were 395 registered holders of record of our Common Stock. Based upon information from our stock transfer agent, management estimates that there are approximately 5,000 beneficial holders of our Common Stock.

Recent Sales of Unregistered Securities

None.

Purchases of Equity Securities by the Issuer

In October 2008, the Board of Directors authorized a share repurchase program of up to $10,000 of our common stock to be implemented over the course of a six-month period. Repurchases may be made from time to time at management's discretion, either in the open market or through privately negotiated transactions. The repurchases will be made in compliance with Securities and Exchange Commission guidelines and will be subject to market conditions, applicable legal requirements, and other factors. We have no obligation under the program to repurchase shares and the program may be suspended or discontinued at any time without prior notice. We intend to fund the purchase price for shares of our common stock acquired primarily with current cash on hand and cash generated from operations, in addition to borrowing from our credit facility, if necessary. Common stock repurchases in the fourth quarter of 2008 were as follows:

Period	(a) Total Number of Shares Purchased	(b) Average Price Paid Per Share	(c) Total Number of Shares Purchased as Part of Publically Announced Plans or Programs	(d) Approximate Dollar Value of Shares that May yet Be Purchased Under The Plans or Programs
September 28, 2008 - November 1, 2008	—	$ —	—	$10,000
November 2, 2008 - November 29, 2008	212,108	8.56	212,108	8,185
November 30, 2008 - December 31, 2008	—	—	—	8,185
Total Fourth Quarter of 2008	212,108		212,108	

Dividends

We have never declared or paid any cash dividend on our capital stock. 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 the Board of Directors may deem relevant. Pursuant to our current credit facility, we are precluded from paying any dividends.

ITEM 6. SELECTED FINANCIAL DATA

The financial results presented in this table include results from the last five calendar years ended December 31, 2008, 2007, 2006, 2005 and 2004.

SELECTED FINANCIAL DATA
(In Thousands, Except Per Share Amounts)

	Year Ended December 31,				
	2008	2007	2006	2005	2004
Statement of Operations Data:					
Revenues	$254,700	$137,596	$ 93,546	$70,501	$ 98,182
Cost of products sold	197,757	108,822	76,103	58,243	77,880
Gross margin	56,943	28,774	17,443	12,258	20,302
Research and development expenses	8,138	7,000	5,097	3,751	2,633
Selling, general and administrative expenses	31,500	21,973	15,303	11,409	10,771
Impairment of long lived assets	—	—	—	—	1,803
Total operating and other expenses	39,638	28,973	20,400	15,160	15,207
Operating income (loss)	17,305	(199)	(2,957)	(2,902)	5,095
Interest (expense) income, net	(930)	(2,184)	(1,298)	(636)	(482)
Gain on insurance settlement	39	—	191	—	214
Gain on McDowell settlement	—	7,550	—	—	—
Gain on debt conversion	313	—	—	—	—
Write-off of UTI investment and note receivable	—	—	—	—	(3,951)
Other income (expense), net	815	493	311	(318)	352
Income (loss) before income taxes	17,542	5,660	(3,753)	(3,856)	1,228
Income tax provision-current	582	—	—	3	32
Income tax provision/(benefit)-deferred	3,297	77	23,735	486	(21,136)
Total income taxes	3,879	77	23,735	489	(21,104)
Net income (loss)	$ 13,663	$ 5,583	$(27,488)	$ (4,345)	$ 22,332
Net income (loss) per share-basic	$ 0.79	$ 0.36	$ (1.84)	$ (0.30)	$ 1.59
Net income (loss) per share-diluted	$ 0.78	$ 0.36	$ (1.84)	$ (0.30)	$ 1.48
Weighted average shares outstanding-basic	17,230	15,316	14,906	14,551	14,087
Weighted average shares outstanding-diluted	17,705	15,557	14,906	14,551	15,074

	December 31,				
	2008	2007	2006	2005	2004
Balance Sheet Data:					
Cash and available-for-sale securities	$ 1,878	$ 2,245	$ 720	$ 3,214	$11,529
Working capital	$ 42,937	$ 26,461	$18,070	$20,979	$30,645
Total assets	$129,587	$122,048	$97,758	$80,757	$81,134
Total long-term debt and capital lease obligations	$ 4,670	$ 16,224	$20,043	$ 25	$ 7,215
Stockholders' equity	$ 88,132	$ 63,007	$39,589	$62,107	$63,625

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

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, future demand for our products and services, addressing the process of U.S. defense procurement, the successful commercialization of our products, the successful integration of our acquired businesses, general domestic and global economic conditions, including the recent distress in the financial markets that has had an adverse impact on the availability of credit and liquidity resources generally, government and environmental regulation, finalization of non-bid government contracts, competition and customer strategies, technological innovations in the non-rechargeable and rechargeable battery industries, changes in our business strategy or development plans, capital deployment, business disruptions, including those caused by fires, raw material supplies, environmental regulations, and other risks and uncertainties, certain of which are beyond our control. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may differ materially from those forward-looking statements described herein as anticipated, believed, estimated or expected or words of similar import. For further discussion of certain of the matters described above, see "Risk Factors" in Item 1A of this annual report.

The following discussion and analysis should be read in conjunction with the accompanying Consolidated Financial Statements and Notes thereto appearing elsewhere in this annual report.

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.

General

We offer products and services ranging from portable and standby 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, standby power systems, communications and electronics systems and accessories, and custom engineered systems, solutions and services. We sell our products worldwide through a variety of trade channels, including original equipment manufacturers ("OEMs"), industrial and retail distributors, national retailers and directly to U.S. and international defense departments.

We report our results in four operating segments: Non-Rechargeable Products, Rechargeable Products, Communications Systems and Design and Installation Services. The Non-Rechargeable Products segment includes: lithium 9-volt, cylindrical and various other non-rechargeable batteries. The Rechargeable Products segment includes: rechargeable batteries, charging systems, uninterruptable power supplies and accessories, such as cables. The Communications Systems segment includes: power supplies, cable and connector assemblies, RF amplifiers, amplified speakers, equipment mounts, case equipment and integrated communication system kits. The Design and Installation Services segment includes: standby power and communications and electronics systems design, installation and maintenance activities and revenues and related costs associated with various development contracts. We look at our segment performance at the gross margin level, and we do not allocate research and development or selling, general and administrative costs against the segments. All other items that do not specifically relate to these four segments and are not considered in the performance of the segments are considered to be Corporate charges. (See Note 10 in the Notes to Consolidated Financial Statements.)

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.

On May 19, 2006, we acquired 100% of the equity securities of ABLE, an established manufacturer of lithium batteries. ABLE is located in Shenzhen, China. The total consideration given for ABLE was a combination of cash and equity. The initial cash portion of the purchase price was $1,896 (net of $104 in cash acquired), with an additional $500 cash payment contingent on the achievement of certain performance milestones, payable in separate $250 increments, when cumulative ABLE revenues from the date of acquisition attain $5,000 and $10,000, respectively. The equity portion of the purchase price consisted of 96,247 shares of our common stock, valued at $1,000, and 100,000 stock warrants valued at $526, for a total equity consideration of $1,526. (See Note 2 in Notes to Consolidated Financial Statements for additional information.)

On July 3, 2006, we finalized the acquisition of substantially all of the assets of McDowell, a manufacturer of military communications accessories. McDowell was located originally in Waco, Texas, with the operations having been relocated to the Newark, New York facility during the second half of 2007. Under the terms of the acquisition agreement, the purchase price of approximately $25,000 consisted of $5,000 in cash and a $20,000 non-transferable, subordinated convertible promissory note to be held by the sellers of McDowell. In addition, the purchase price was subject to a post-closing adjustment based on a final valuation of trade accounts receivable, inventory and trade accounts payable that were acquired or assumed on the date of the closing, using a base value of $3,000. The final net value of these assets, under our contractual obligation under the acquisition agreement, was $6,389, resulting in a revised purchase price of approximately $28,448. On November 16, 2007, we finalized a settlement agreement with the sellers of McDowell, which resolved various operational issues that arose during the first several months following the acquisition that significantly reduced our profit margins. The settlement agreement reduced the overall purchase price by approximately $7,900, by reducing the principal amount on the convertible note from $20,000 to $14,000, and eliminating a $1,889 liability related to the Purchase Price Adjustment formula. In addition, the interest rate on the convertible notes was increased from 4% to 5% and we made prepayments totaling $3,500 on the convertible notes. In January 2008, the convertible notes were converted in full into 700,000 shares of our common stock. (See Note 2 in Notes to Consolidated Financial Statements for additional information.)

On September 28, 2007, we finalized the acquisition of all the issued and outstanding shares of common stock of RedBlack, a provider of a wide range of engineering and technical services for communication electronic systems to government agencies and prime contractors. RedBlack is located in Hollywood, Maryland. The initial cash purchase price was $943 (net of $57 in cash acquired), with up to $2,000 in additional cash consideration contingent on the achievement of certain sales milestones. The additional cash consideration was payable in up to three annual payments and subject to possible adjustments as set forth in the stock purchase agreement. On February 9, 2009, we entered into Amendment No. 1 to the RedBlack stock purchase agreement, which eliminated the up to $2,000 in additional cash consideration contingent on the achievement of certain sales milestones provision, in exchange for a one time final payment of $1,020. (See Note 2 to Consolidated Financial Statements for additional information.)

On November 16, 2007, we completed the acquisition of all of the issued and outstanding shares of common stock of Stationary Power, an infrastructure power management services firm specializing in engineering, installation and preventative maintenance of standby power systems, uninterruptible power supply systems, DC power systems and switchgear/control systems for the telecommunications, aerospace, banking and information services industries. Stationary Power is located in Clearwater, Florida. Under the terms of the stock purchase agreement, the initial purchase price of $10,000 consisted of $5,889 (net of $111 in cash acquired) in cash and a $4,000 subordinated convertible promissory note to be held by the previous owner of Stationary Power. In addition, on the achievement of certain post-acquisition sales milestones, we will issue up to an aggregate amount of 100,000 shares of our common stock. (See Note 2 in the Notes to Consolidated Financial Statements for additional information.)

On November 16, 2007, we completed the acquisition of all of the issued and outstanding shares of common stock of RPS, an affiliate of Stationary Power, and a supplier of lead acid batteries primarily for use by Stationary Power in the design and installation of standby power systems. Under the terms of the stock purchase agreement, the initial purchase price consisted of 100,000 shares of our common stock, valued at $1,383. In addition, on the achievement of certain post-acquisition sales milestones, we will pay the sellers, in cash, 5% of sales up to the sales in the operating plan, and 10% of sales that exceed the sales in the operating plan, for the remainder of the calendar year 2007 and for calendar years 2008, 2009 and 2010. The additional contingent cash consideration is payable in annual installments, and excludes sales made to Stationary Power, which historically have comprised substantially all of RPS's sales. (See Note 2 in the Notes to Consolidated Financial Statements for additional information.)

In March 2008, we formed a joint venture, the 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 $61 in cash into the India JV, as consideration for our 51% ownership stake in the India JV.

In June 2008, we changed our corporate name from Ultralife Batteries, Inc. to Ultralife Corporation. The purpose of the name change was to align our corporate name more closely with the business now being conducted by us, as we are no longer exclusively a battery manufacturing company.

On November 10, 2008, we acquired certain assets of USE, a nationally recognized standby power installation and power management services business. USE is located in Riverside, California. Under the terms of the agreement, the initial purchase price consisted of $2,865 in cash. In addition, on the achievement of certain post-acquisition financial

milestones, we will issue up to an aggregate amount of 200,000 unregistered shares of our common stock, over a period of four years. (See Note 2 in the Notes to Consolidated Financial Statements for additional information.)

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.

Results of Operations

Twelve Months Ended December 31, 2008 Compared With the Twelve Months Ended December 31, 2007

	12 Months Ended		Increase /
	12/31/2008	12/31/2007	(Decrease)
Revenues	$ 254,700	$ 137,596	$ 117,104
Cost of products sold	197,757	108,822	88,935
Gross margin	56,943	28,774	28,169
Operating and other expenses	39,638	28,973	10,665
Operating income (loss)	17,305	(199)	17,504
Other income (expense), net	237	5,859	(5,622)
Income before taxes	17,542	5,660	11,882
Income tax provision	3,879	77	3,802
Net income	$ 13,663	$ 5,583	$ 8,080
Net income per share — basic	$ 0.79	$ 0.36	$ 0.43
Net income per share — diluted	$ 0.78	$ 0.36	$ 0.42
Weighted average shares outstanding-basic	17,230,000	15,316,000	1,914,000
Weighted average shares outstanding-diluted	17,705,000	15,557,000	2,148,000

Revenues. Total revenues for the twelve months ended December 31, 2008 amounted to $254,700, an increase of $117,104, or 85% from the $137,596 reported for the twelve months ended December 31, 2007.

Non-Rechargeable product sales decreased $12,186, or 15%, from $80,262 last year to $68,076 this year. The decrease in Non-Rechargeable revenues was mainly attributable to the non-recurrence in 2008 of the fulfillment of battery orders to international defense customers that occurred in 2007. Offsetting this decrease, in part, were increases in BA-5390 and other military battery sales, as well as higher sales of backup battery systems for automotive telematics customers.

Rechargeable product revenues increased $17,935, or 107%, from $16,756 last year to $34,691 this year. The increase in Rechargeable revenues was mainly attributable to higher sales of lithium-ion battery packs and charging systems primarily to government/defense customers.

Communications Systems revenues increased $98,932, or 266%, from $37,140 last year to $136,072 this year. The increase in Communications Systems revenues was mainly attributable to deliveries of SATCOM-On-The-Move and other advanced communications systems related to the sizeable orders we received during the latter part of 2007.

Design and Installation Services revenues increased $12,423, or 361%, from $3,438 last year to $15,861 this year. The increase in Design and Installation Services revenues was mainly attributable to the full year impact of the acquisitions of RedBlack and Stationary Power that were completed in the second half of 2007, as well as the acquisition of USE in November 2008.

Cost of Products Sold. Cost of products sold increased $88,935, or 82%, from $108,822 for the year ended December 31, 2007 to $197,757 for the year ended December 31, 2008, primarily as a result of the increase in revenues. Consolidated cost of products sold as a percentage of total revenue decreased from 79% for the twelve months ended December 31, 2007 to 78% for the year ended December 31, 2008. Correspondingly, consolidated gross margins was 22% for the year ended December 31, 2008, compared with 21% for the year ended December 31, 2007, generally attributable to higher sales and production volumes and a more favorable sales mix of higher margin products.

In our Non-Rechargeable Products segment, the cost of products sold decreased $5,230, from $62,515 in the year ended December 31, 2007 to $57,285 in 2008. Non-Rechargeable gross margin for 2008 was $10,791, or 16%, a decrease of $6,956 from 2007's gross margin of $17,747, or 22%. Non-Rechargeable gross margin declined primarily as a result of lower overhead absorption from lower sales volumes, an unfavorable product shift which was partially impacted by lower margin telematics products, and higher costs of raw materials related to increasing energy and transportation costs. The decrease was also attributable to the costs incurred to transition our U.K. manufacturing and assembly operation to a distribution and service center, including a second quarter restructuring charge of approximately $750 for employee termination costs and certain asset valuation adjustments.

In our Rechargeable Products segment, the cost of products sold increased $14,695, from $13,178 in 2007 to $27,873 in 2008. Rechargeable gross margin for 2008 was $6,818, or 20%, an increase of $3,240 from 2007's gross margin of $3,578, or 21%. The decrease in Rechargeable gross margin percentage was primarily attributable to an increase in component costs, acceptance of lower margin projects to develop new customers and product mix.

In our Communications Systems segment, the cost of products sold increased $68,820, from $30,447 in 2007 to $99,267 in 2008. Communications Systems gross margin for 2008 was $36,805, or 27%, an increase of $30,112 from 2007's gross margin of $6,693, or 18%. The increase in the Communications Systems gross margin primarily resulted from higher overall sales, production volumes and a favorable product mix, as well as improvements in our supply chain management and lower material costs.

In our Design and Installation Services segment, the cost of sales increased $10,650, from $2,682 for the year ended December 31, 2007, to $13,332 in 2008. Design and Installation Services gross margin for 2008 was $2,529, or 16%, compared to 2007's gross margin of $756, or 22%. The gross margin percentage in this particular segment declined in 2008 due primarily to investments we are making and associated start-up costs to grow this segment, including the addition of new sales/service centers and certain integration costs associated with the acquisition of USE. Previous to the acquisitions of RedBlack and Stationary Power, this segment was comprised mainly of technology contracts which had varying margins dependent on the progress of individual contracts.

Operating Expenses. Total operating expenses increased $10,665, from $28,973 for the year ended December 31, 2007 to $39,638 for the year ended December 31, 2008. Overall, operating expenses as a percentage of sales decreased to 16% in 2008 from 21% reported the prior year, as we were able to leverage our operating expense base against the increase in revenues. Amortization expense associated with intangible assets related to our acquisitions was $2,119 for 2008 ($1,486 in selling, general and administrative expenses and $633 in research and development costs), compared with $2,317 for 2007 ($1,290 in selling, general, and administrative expenses and $1,027 in research and development costs). Research and development costs were $8,138 in 2008, an increase of $1,138, or 16%, over the $7,000 reported in 2007. This increase was mainly due to an increase in overall product development and design activity. Selling, general, and administrative expenses increased $9,527, or 43%, to $31,500. This increase was comprised of approximately $4,700 associated with costs related to acquired companies, in addition to higher sales-based commissions, enhanced sales and marketing efforts and higher administrative costs required to operate a more diverse organization.

Other Income (Expense). Other income (expense) totaled $237 for the year ended December 31, 2008, compared to $5,859 for the year ended December 31, 2007. Interest expense, net of interest income, decreased $1,254, from $2,184 for 2007 to $930 for 2008, mainly as a result of the conversion, in the first quarter of 2008, of convertible notes into shares of common stock related to the McDowell acquisition, as well as lower borrowings under our revolving credit facility. In 2008, we recognized a gain of $313 on the early conversion of the $10,500 convertible notes held by the sellers of McDowell, which related to an increase in the interest rate on the notes from 4% to 5% in October 2007. In 2007, we recorded a gain on the McDowell settlement of $7,550 as a result of a negotiated reduction in the purchase price that was finalized in November 2007 (see Note 2 for additional information). Miscellaneous income/expense amounted to income of $854 for 2008 compared with income of $493 for 2007. This income was primarily due to the recognition of $300 in grant revenue from the satisfaction of all the requirements from a government grant in 2008 and the transactions impacted by changes in foreign currencies relative to the U.S. dollar.

Income Taxes. We reflected a tax provision of $3,879 for the twelve-month period ended December 31, 2008 compared with $77 in the same period of 2007. The 2008 tax provision included an approximate $3,100 non-cash charge to record a deferred tax liability for liabilities generated from book/tax differences pertaining to goodwill and certain intangible assets that cannot be predicted to reverse during our loss carryforward periods. Substantially all of this adjustment related to book/tax differences that occurred during 2007 and were identified during the second quarter of 2008. In connection with this adjustment, we reviewed the illustrative list of qualitative considerations provided in SEC Staff Accounting Bulletin No. 99 and other qualitative factors in our determination that this adjustment was not material to the 2007 consolidated financial statements or this annual report on Form 10-K. The effective consolidated tax rate for

the twelve-month period ended December 31, 2008 was 22.1% compared with 1.4% for the same period in 2007. Since we have significant net operating loss carryforwards from our U.S. and U.K. operations, the cash outlay for income taxes is limited to the alternative minimum tax in 2008 in the U.S. and nominal for quite some time into the future in the U.K. The cash outlay for the alternative minimum tax in the U.S. is due to the fact that certain of our NOL carryforwards are subject to U.S. alternative minimum tax limitation, such that carryforwards can offset only 90% of alternative minimum taxable income.

During the fiscal quarter ended December 31, 2006, we recorded a full valuation allowance on our net deferred tax asset, due to the determination, at that time, that it was more likely than not that we would not be able to utilize our U.S. and U.K. net operating loss carryforwards ("NOL's") that had accumulated over time. At December 31, 2008, we continue to recognize a valuation allowance on our U.S. deferred tax asset, to the extent that we believe, that it is more likely than not that we will not be able to utilize that portion of our U.S. NOL's that had accumulated over time. A U.S. valuation allowance is not required for the portion of the deferred tax asset that will be realized by the reversal of temporary differences related to deferred tax liabilities to the extent those temporary differences are expected to reverse in our carryforward period. At December 31, 2008, we continue to recognize a full valuation allowance on our U.K. net deferred tax asset, as we believe, at this time, that it is more likely than not that we will not be able to utilize our U.K. NOL's that had accumulated over time. (See Notes 1 and 8 in the Notes to Consolidated Financial Statements for additional information.) We continually monitor the assumptions and performance results to assess the realizability of the tax benefits of the U.S. and U.K. NOL's and other deferred tax assets, in accordance with the accounting standards.

We have determined that a change in ownership, as defined under Internal Revenue Code Section 382, occurred in 2005 and 2006. As such, the domestic NOL carryforward will be subject to an annual limitation estimated to be in the range of approximately $12,000 to $14,500. The unused portion of the annual limitation can be carried forward to subsequent periods. Our ability to utilize NOL carryforwards due to the successive ownership changes is currently limited to a minimum of approximately $12,000 annually, plus the carryover from unused portions of the annual limitations. We believe such limitation will not impact our ability to realize the deferred tax asset.

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 2007. However, this limitation does have an impact of $559 on income taxes determined for 2008. 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. For further discussion, see "Risk Factors" in Item 1A of this annual report.

Net Income. Net income and earnings per diluted share were $13,663 and $0.78, respectively, for the year ended December 31, 2008, compared to net income and earnings per diluted share of $5,583 and $0.36, respectively, for the year ended December 31, 2007, primarily as a result of the reasons described above. Average common shares outstanding used to compute diluted earnings per share increased from 15,557,000 in 2007 to 17,705,000 in 2008, mainly due to the 1,000,000 share issuance in the fourth quarter of 2007 from our limited public offering, conversion of the McDowell convertible notes into 700,000 shares of our common stock during the first quarter of 2008, stock option and warrant exercises, restricted stock grants, and potentially dilutive shares from unexercised options and convertible notes.

Twelve Months Ended December 31, 2007 Compared With the Twelve Months Ended December 31, 2006

	12 Months Ended		Increase /
	12/31/2007	12/31/2006	(Decrease)
Revenues	$ 137,596	$ 93,546	$ 44,050
Cost of products sold	108,822	76,103	32,719
Gross margin	28,774	17,443	11,331
Operating and other expenses	28,973	20,400	8,573
Operating income (loss)	(199)	(2,957)	2,758
Other income (expense), net	5,859	(796)	6,655
Income (loss) before taxes	5,660	(3,753)	9,413
Income tax provision	77	23,735	(23,658)
Net income (loss)	$ 5,583	$ (27,488)	$ 33,071
Net income (loss) per share — basic	$ 0.36	$ (1.84)	$ 2.20
Net income (loss) per share — diluted	$ 0.36	$ (1.84)	$ 2.20
Weighted average shares outstanding-basic	15,316,000	14,906,000	410,000
Weighted average shares outstanding-diluted	15,557,000	14,906,000	651,000

Revenues. Total revenues for the twelve months ended December 31, 2007 amounted to $137,596, an increase of $44,050, or 47% from the $93,546 reported for the twelve months ended December 31, 2006.

Non-Rechargeable product sales increased $12,483, or 18%, from $67,779 in 2006 to $80,262 in 2007. The increase in revenues was mainly attributable to an increase in sales of batteries to international defense organizations, an increase in demand from automotive telematics customers, and a full year contribution from ABLE which was acquired in mid-2006, offset in part by lower 9-volt battery revenues.

Rechargeable product revenues decreased $989, or 6%, from $17,745 in 2006 to $16,756 in 2007. The decrease in revenues was attributable to a strong prior year in which we shipped a large order of batteries and chargers for an IED jammer application.

Sales of communications systems increased $29,707, or 400%, from $7,433 in 2006 to $37,140 in 2007. This increase in revenues was mainly attributable to a growing demand for advanced communications systems and kits sold to government/defense customers, including systems such as SATCOM-On-The-Move and other systems that provide a person with the ability to significantly extend the range of a communications radio. In addition, since McDowell was acquired in July 2006, only a partial year's results were included in 2006.

Design and Installation Services revenues increased $2,849, or 484%, from $589 in 2006 to $3,438 in 2007. This increase in revenues was mainly attributable to the added contributions from the acquisitions of RedBlack in September 2007 and Stationary Power in November 2007.

Cost of Products Sold. Cost of products sold increased $32,719, or 43%, from $76,103 for the year ended December 31, 2006 to $108,822 for the year ended December 31, 2007, primarily as a result of the increase in revenues. Consolidated cost of products sold as a percentage of total revenue decreased from 81% for the twelve months ended December 31, 2006 to 79% for the year ended December 31, 2007. Correspondingly, consolidated gross margins were 21% for the year ended December 31, 2007, compared with 19% for the year ended December 31, 2006, generally attributable to higher sales and production volumes and a more favorable sales mix of higher margin products.

In the Non-Rechargeable Products segment, the cost of products sold increased $6,594, from $55,921 in the year ended December 31, 2006 to $62,515 in 2007, mainly related to higher sales and production volumes. Non-Rechargeable gross margins for 2007 were $17,747, or 22%, an increase of $5,889 from 2006's gross margin of $11,858, or 17%. This increase in gross margin was mainly attributable to shipments of higher margin products to international customers.

In the Rechargeable Products segment, the cost of products sold decreased $745, from $13,923 in 2006 to $13,178 in 2007. Rechargeable gross margins for 2007 were $3,578, or 21%, a decrease of $244 from 2006's gross margin of $3,822, or 22%. This decrease in gross margin was the result of the decline in sales volumes and a modest change in sales mix.

In the Communications Systems segment, the cost of products sold increased $24,785, from $5,662 in 2006 to $30,447 in 2007, reflective of the increase in revenues. Communications Systems gross margins for 2007 were $6,693, or 18%, a decrease from 2006’s gross margin of $1,771, or 24%. The decrease in gross margin percentages was mainly related to operational issues incurred at our Waco, Texas operation shortly after the acquisition of McDowell in July 2006 that resulted in the procurement of premium cost inventory, increasing our cost of goods sold during 2007 as this inventory was sold to customers. As a result of manufacturing inefficiencies at that facility, we relocated the Waco operations to our Newark, New York facility during the second half of 2007, to instill better processes and manufacturing disciplines. The actual costs associated with this relocation were relatively modest, amounting to approximately $156. In addition, we encountered certain inefficiencies in our manufacturing process during the fourth quarter of 2007 as we ramped up our production operation to begin to fulfill certain large orders we received during the latter portion of 2007 for advanced communications systems, as we increased our workforce and trained new people on processes, procedures and systems.

Design and Installation Services cost of sales increased $2,085, from $597 for the year ended December 31, 2006, to $2,682 in 2007. Design and Installation Services gross margins for 2007 were $756, or 22%, an increase from 2006’s gross margin of ($8), or (1)%. This increase was mainly due to varying margins realized under different technology contracts, in addition to the contribution from RedBlack and Stationary Power.

Operating and Other Expenses. Total operating expenses increased $8,573, from $20,400 for the year ended December 31, 2006 to $28,973 for the year ended December 31, 2007. Overall, operating expenses as a percentage of sales decreased to 21% in 2007 from 22% reported the prior year. Research and development costs were $7,000 in 2007, an increase of $1,903, or 37%, over the $5,097 reported in 2006. This increase was mainly due to greater investments in the development of various new products, including products resulting from our acquisitions and support for a broader base of products. In addition to the research and development line shown in Operating Expenses, we also consider our efforts associated with technology contracts for which we are paid (revenues and related costs are included in the Design and Installation Services segment), to be related to key product development efforts. Selling, general, and administrative expenses increased $6,670, or 44%, to $21,973, mainly related to costs associated with acquired companies and costs associated with providing a significantly higher level of support to enhance the growth prospects of these acquisitions, including increased personnel-related costs, and higher professional fees incurred and corporate costs required to support a broader, more diverse business. Included in research and development and selling, general and administrative expenses is $2,317 for 2007 in amortization expense associated with intangible assets related to our acquisitions ($1,290 in selling, general and administrative expenses and $1,027 in research and development costs), an increase of $1,118 from the prior year amount of $1,199, driven by the timing of the acquisitions.

Other Income (Expense). Interest expense (net) increased $886, from $1,298 for the year ended December 31, 2006 to $2,184 for the year ended December 31, 2007. This change was mainly related to higher interest on convertible debt and higher borrowings under our revolving credit facility. We recorded a gain on the McDowell settlement of $7,550 as a result of a negotiated reduction in the purchase price that was finalized in November 2007 (see Note 2 for additional information). Miscellaneous income/expense amounted to income of $493 for 2007 compared with income of $311 for 2006. This income was primarily due to foreign currency exchange gains, and the increase related mainly to the strengthening of the U.K. pound sterling compared with the U. S. dollar.

Income Taxes. We reflected a tax provision of $77 for the twelve-month period ended December 31, 2007 compared with $23,735 in the same period of 2006. At the end of 2006, we recorded a full valuation allowance on our net deferred tax asset, due to the determination that it was more likely than not that we would not be able to utilize these benefits in the future. At December 31, 2007, we continue to recognize a full valuation allowance on our net deferred tax asset, as we believe that it is more likely than not that we will not be able to utilize these benefits in the future. (See Notes 1 and 8 for additional information.)

Net Income. Net income was $5,583, or $0.36 per basic and diluted common share, for the year ended December 31, 2007 compared with a net loss of $27,488, or $1.84 per basic and diluted common share, for the year ended December 31, 2006, primarily as a result of an improvement in the operating loss due to improved profit margins on revenues and overall increase in sales volumes, the recognition of a non-operating gain on the McDowell settlement, and the recognition of a full valuation allowance against our deferred tax asset in 2006 that did not reoccur in 2007. Average common shares outstanding used to compute diluted earnings per share increased from 14,906,000 in 2006 to 15,557,000 in 2007, mainly due to stock option exercises, the dilutive impact from unexercised options and warrants, and the partial-year impact of the limited public offering completed in November 2007 where an additional 1,000,000 shares were issued.

Adjusted EBITDA

In evaluating our business, we consider and use Adjusted EBITDA, a non-GAAP financial measure, as a supplemental measure of our operating performance. We define Adjusted EBITDA as net income (loss) 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 operations. We use Adjusted EBITDA 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 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-cash, non-operating expenses or income. We also present Adjusted EBITDA 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 to net income (loss), the most comparable financial measure under U.S. generally accepted accounting principles ("U.S. GAAP").

We use Adjusted EBITDA 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 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 provide information relating to our Adjusted EBITDA 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 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 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 has limitations as an analytical tool, and when assessing our operating performance, Adjusted EBITDA should not be considered in isolation, or as a substitute for net income (loss) 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:

- Adjusted EBITDA (1) does not reflect our cash expenditures or future requirements for capital expenditures or contractual commitments; (2) does not reflect changes in, or cash requirements for, our working capital needs; (3) does not reflect the interest expense, or the cash requirements necessary to service interest or principal payments, on our debt; (4) does not reflect income taxes or the cash requirements for any tax payments; and (5) does not reflect all of the costs associated with operating our business;
- 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 does not reflect any cash requirements for such replacements;
- 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; and
- other companies may calculate Adjusted EBITDA 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 only supplementally. Adjusted EBITDA is calculated as follows for the periods presented:

	Years ended December 31,		
	2008	2007	2006
Net income (loss)	$ 13,663	$ 5,583	$ (27,488)
Add: interest expense, net	930	2,184	1,298
Add: income tax provision	3,879	77	23,735
Add: depreciation expense	3,851	3,861	3,667
Add: amortization expense	2,119	2,317	1,199
Add: stock-based compensation expense	2,266	2,149	1,480
Less: gain on McDowell settlement	—	(7,550)	—
Less: gain on debt conversion	(313)	—	—
Adjusted EBITDA	$ 26,395	$ 8,621	$ 3,891

Liquidity and Capital Resources

Cash Flows and General Business Matters

As of December 31, 2008, cash and cash equivalents totaled $1,878. During the twelve months ended December 31, 2008, we generated $19,058 of cash from operating activities as compared to generating $1,569 of cash for the twelve months ended December 31, 2007. The cash from operating activities generated during 2008 was mainly attributable to our pre-tax income of $13,663, plus an addback of $8,236 for non-cash expenses including depreciation, amortization and stock-based compensation. Approximately $10,499 of cash was used for working capital due mainly to increases in accounts receivable and inventories, offset by an increase in accounts payable and a decrease in prepaid expenses. For 2007, the cash generated from operating activities of $1,569 was mainly attributable to a pre-tax income of $5,583, plus an addback for non-cash expenses of depreciation, amortization and stock-based compensation of $8,327 offset by a deduction of $7,550 for the non-cash gain from the McDowell settlement agreement. Approximately $6,114 of cash was used for working capital due mainly to an increase in inventories that resulted from sizeable orders for communications systems in the latter part of 2007.

In 2008, we used $6,958 of cash in investing activities, $3,787 of which was used to purchase fixed assets, and $3,171 of which was used in connection with the acquisition of USE, as well as a contingent purchase price payout related to the ABLE acquisition. During 2008, we used $12,723 of cash in financing activities. The financing activities included outflows of $11,204 for revolver loan repayments, $2,230 for principal payments on our term loan, capital leases, and debt we assumed from acquisitions, and purchase of treasury shares of $1,815. The financing activities included inflows of $2,526 from stock option and warrant exercises.

Although we booked a full reserve for our deferred tax asset during the fourth quarter of 2006 and continued to carry this reserve as of December 31, 2007 and 2008, we continue to have significant U.S. NOL's available to us to utilize as an offset to taxable income. As of December 31, 2008, none of our U.S. NOL's have expired. During 2008, we utilized $27,682 of our U.S. NOL carryforwards such that over the next five years, there are no scheduled expirations of our U.S. NOL's. (See Note 8 in the Notes to the Consolidated Financial Statements for additional information.)

Inventory turnover for the year ended December 31, 2008 averaged 4.6 turns compared to 3.0 turns for 2007. The improvement in this metric is mainly due to the increased volume of sales and production activity during 2008, primarily driven by our communications systems business. Going forward, we anticipate achieving an annual rate of between 4.0 and 5.0 turns. Our Days Sales Outstanding (DSOs) was an average of 53 days for 2008, an improvement from the 2007 average of 55 days, mainly due to more favorable timing on payments received from customers in our Communications Systems segment.

Our order backlog at December 31, 2008 was approximately $43,400. The majority of the backlog was related to orders that are expected to ship throughout 2009.

As of December 31, 2008, we had made commitments to purchase approximately $629 of production machinery and equipment, which we expect to fund through operating cash flows.

Potential Commitments

In October 2005, we received a contract valued at approximately $3,000 from the U.S. Defense Department to purchase equipment and enhance processes to reduce lead time and increase manufacturing efficiency to boost production surge capability of our BA-5390 battery during contingency operations. Under the contract, we had also purchased and pre-positioned critical long lead-time materials and subassemblies. During 2006, 2007 and 2008, we received approximately $3,077, primarily related to reimbursement for raw material inventory and the procurement of certain equipment. The funding under this contract was completed during 2008.

We have had certain “exigent” non-bid contracts with the U.S. government that have been subject to an audit and final price adjustment, which have resulted in decreased margins compared with the original terms of the contracts. As of December 31, 2008, there were no outstanding exigent contracts with the government. As part of its due diligence, the government has conducted post-audits of the completed exigent contracts to ensure that information used in supporting the pricing of exigent contracts did not differ materially from actual results. In September 2005, the Defense Contracting Audit Agency (“DCAA”) presented its findings related to the audits of three of the exigent contracts, suggesting a potential pricing adjustment of approximately $1,400 related to reductions in the cost of materials that occurred prior to the final negotiation of these contracts. We have reviewed these audit reports, have submitted our response to these audits and believe, taken as a whole, the proposed audit adjustments can be offset with the consideration of other compensating cost increases that occurred prior to the final negotiation of the contracts. While we believe that potential exposure exists relating to any final negotiation of these proposed adjustments, we cannot reasonably estimate what, if any, adjustment may result when finalized. In addition, in June 2007, we received a request from the Office of Inspector General of the Department of Defense (“DoD IG”) seeking certain information and documents relating to our business with the Department of Defense. We are cooperating with the DoD IG inquiry and are furnishing the requested information and documents. At this time we have no basis for assessing whether we might face any penalties or liabilities on account of the DoD IG inquiry. The aforementioned DCAA-related adjustments could reduce margins and, along with the aforementioned DoD IG inquiry, could have an adverse effect on our business, financial condition and results of operation.

From August 2002 through August 2006, we participated in a self-insured trust to manage our workers’ compensation activity for our employees in New York State. All members of this trust have, by design, joint and several liability during the time they participate in the trust. In August 2006, we left the self-insured trust and have obtained alternative coverage for our workers’ compensation program through a third-party insurer. In the third quarter of 2006, we confirmed that the trust was in an underfunded position (i.e. the assets of the trust were insufficient to cover the actuarially projected liabilities associated with the members in the trust). In the third quarter of 2006, we recorded a liability and an associated expense of $350 as an estimate of our potential future cost related to the trust’s underfunded status based on our estimated level of participation. On April 28, 2008, we, along with all other members of the trust, were served by the State of New York Workers’ Compensation Board (“Compensation Board”) with a Summons with Notice that was filed in Albany County Supreme Court, wherein the Compensation Board put all members of the trust on notice that it would be seeking approximately $1,000 in previously billed and unpaid assessments and further assessments estimated to be not less than $25,000 arising from the accumulated estimated under-funding of the trust. The Summons with Notice did not contain a complaint or a specified demand. We timely filed a Notice of Appearance in response to the Summons with Notice. On June 16, 2008, we were served with a Verified Complaint. The Verified Complaint estimates that the trust was underfunded by $9,700 during the period of December 1, 1997 — November 30, 2003 and an additional $19,400 for the period December 1, 2003 — August 31, 2006. The Verified Complaint estimates our pro-rata share of the liability for the period of December 1, 1997 — November 30, 2003 is $195. The Verified Complaint did not contain a pro-rata share liability estimate for the period of December 1, 2003-August 31, 2006. Further, the Verified Complaint states that all estimates of the underfunded status of the trust and the pro-rata share liability for the period of December 1, 1997-November 30, 2003 are subject to adjustment based on a forensic audit of the trust that is currently being conducted on behalf of the Compensation Board by a third-party audit firm. We timely filed our Verified Answer with Affirmative Defenses on July 24, 2008. While the potential of joint and several liability exists, we have paid all assessments that have been levied against us to date during our participation in the trust. In addition, our liability is limited to the extent that the trust was underfunded for the years of our participation. As of December 31, 2008, we have determined that our $350 reserve for this potential liability continues to be reasonable. The final amount may be more or less, depending upon the ultimate settlement of claims that remain in the trust for the period of time we were a member. It may take several years before resolution of outstanding workers’ compensation claims are finally settled. We will continue to review this liability periodically and make adjustments accordingly as new information is collected.

In connection with our acquisition of ABLE on May 19, 2006, there was an additional $500 cash payment to be made to the sellers of ABLE upon the achievement of certain performance milestones, payable in separate $250 payments, when cumulative ABLE revenues from the date of acquisition attain $5,000 and $10,000, respectively. The contingent payments were recorded as an addition to the purchase price when the performance milestones were attained. The first

milestone payment was made during the fourth quarter of 2007 and the second milestone payment was made during the third quarter of 2008.

In connection with our acquisition of McDowell, the purchase price of approximately $25,000 (consisting of $5,000 in cash and a $20,000 non-transferable convertible note to be held by the sellers of McDowell) was subject to a post-closing adjustment based on a final valuation of trade accounts receivable, inventory and trade accounts payable that were acquired or assumed on the date of the closing, using a base value of $3,000. The final net value of these assets, under our contractual obligation under the acquisition agreement, was $6,389, resulting in a revised purchase price of approximately $28,448. In January 2007, we made a $1,500 payment to the sellers of McDowell as partial payment for the remaining obligation and we had accrued $1,889 for the remaining final post-closing adjustment of $3,389. On November 16, 2007, we finalized a settlement agreement with the sellers of McDowell, which resolved various operational issues that arose during the first several months following the acquisition that significantly reduced our profit margins. The settlement agreement reduced the overall purchase price by approximately $7,900, by reducing the principal amount on the convertible note from $20,000 to $14,000, and eliminating a $1,889 liability related to the Purchase Price Adjustment formula. In addition, the interest rate on the convertible notes was increased from 4% to 5% and we made prepayments totaling $3,500 on the convertible notes. In January 2008, the remaining $10,500 principal balance on the convertible notes was converted in full into 700,000 shares of our common stock.

In connection with our acquisition of RedBlack on September 28, 2007, there was an additional cash payment of up to $2,000 to be made contingent upon the achievement of certain annual sales milestones through September 30, 2010. The additional cash consideration was payable in up to three annual payments and subject to possible adjustments as set forth in the stock purchase agreement. On February 9, 2009, we entered into Amendment No. 1 to the RedBlack stock purchase agreement, which eliminated the up to $2,000 in additional cash consideration contingent on the achievement of certain sales milestones provision, in exchange for a one time final payment of $1,020.

In connection with our acquisition of Stationary Power on November 16, 2007, the purchase agreement specified an adjustment mechanism based upon Stationary Power’s closing date net worth balance relative to a previously-agreed amount of $500. The final net value of the “Net Worth”, under the stock purchase agreement, was $339, resulting in a revised initial purchase price of $9,839. In addition, there is a contingent payout of up to 100,000 shares of our common stock to be earned upon the achievement of certain post-acquisition sales milestones. Through the year ended December 31, 2008, we have issued no shares of our common stock relating to this contingent consideration.

In connection with our acquisition of RPS on November 16, 2007, on the achievement of certain post-acquisition sales milestones, we will pay the previous owners of RPS, in cash, 5% of sales up to the sales in the operating plan, and 10% of sales that exceed the sales in the operating plan, for the remainder of the calendar year 2007 and for calendar years 2008, 2009 and 2010. The additional contingent cash consideration is payable in annual installments, and excludes sales made to Stationary Power, which historically have comprised substantially all of RPS’s sales. Through the year ended December 31, 2008, we have recorded $49 in contingent cash consideration.

In connection with our acquisition of USE on November 10, 2008, there is a contingent payout of up to 200,000 unregistered shares of our common stock to be earned upon the achievement of certain post-acquisition financial milestones. Through the year ended December 31, 2008, we have issued no shares of our common stock relating to this contingent consideration.

Debt and Lease Commitments

At December 31, 2008, we had outstanding capital lease obligations of $437.

As of December 31, 2008, our primary credit facility consisted of both a term loan component and a revolver component, and the facility is collateralized by essentially all of our assets, including all of our subsidiaries. The lenders of the credit facility are JP Morgan Chase Bank and Manufacturers and Traders Trust Company, with JP Morgan Chase Bank acting as the administrative agent. As of December 31, 2008, the revolver loan commitment was $22,500. Availability under the revolving credit component is subject to meeting certain financial covenants, including a debt to earnings ratio, a fixed charge coverage ratio, and a current assets to total liabilities ratio. In addition, we are required to meet certain non-financial covenants. The rate of interest, in general, was based upon either the current prime rate, or a LIBOR rate plus 250 basis points.

On June 30, 2004, we drew down the full $10,000 term loan. The term loan is being repaid in equal monthly installments of $167 over five years. On July 1, 2004, we entered into an interest rate swap arrangement in the notional amount of $10,000 to be effective on August 2, 2004, related to the $10,000 term loan, in order to take advantage of

historically low interest rates. We received a fixed rate of interest in exchange for a variable rate. The swap rate received was 3.98% for five years. The total rate of interest paid by us is equal to the swap rate of 3.98% plus the applicable Eurodollar spread associated with the term loan. During the full year of 2006, the adjusted rate was 6.98%. During the full year of 2007, the adjusted rate ranged from 5.98% to 7.23%. During the full year of 2008, the adjusted rate ranged from 5.73% to 6.48% Derivative instruments are accounted for in accordance with SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities", which requires that all derivative instruments be recognized in the financial statements at fair value. The fair value of this arrangement at December 31, 2008 resulted in a liability of $12, all of which was reflected as a short-term liability.

There have been several amendments to the credit facility during the past few years, including amendments to authorize acquisitions and modify financial covenants. Effective February 14, 2007, we entered into Forbearance and Amendment Number Six to the Credit Agreement ("Forbearance and Amendment") with the banks. The Forbearance and Amendment provided that the banks would forbear from exercising their rights under the credit facility arising from our failure to comply with certain financial covenants in the credit facility with respect to the fiscal quarter ended December 31, 2006. Specifically, we were not in compliance with the terms of the credit facility because we failed to maintain the required debt-to-earnings and EBIT-to-interest ratios provided for in the credit facility at that time. The banks agreed to forbear from exercising their respective rights and remedies under the credit facility until March 23, 2007 ("Forbearance Period"), unless we breached the Forbearance and Amendment or unless another event or condition occurred that constituted a default under the credit facility. Each bank agreed to continue to make revolving loans available to us during the Forbearance Period. Pursuant to the Forbearance and Amendment, the aggregate amount of the banks' revolving loan commitment was reduced from $20,000 to $15,000. During the Forbearance Period, the applicable revolving interest rate and the applicable term interest rate, in each case as set forth in the credit agreement, both were increased by 25 basis points. In addition to a number of technical and conforming amendments, the Forbearance and Amendment revised the definition of "Change in Control" in the credit facility to provide that the acquisition of equity interests representing more than 30% of the aggregate ordinary voting power represented by the issued and outstanding equity interests of us shall constitute a "Change in Control" for purposes of the credit facility. Previously, the equity interest threshold had been set at 20%.

Effective March 23, 2007, we entered into Extension of Forbearance and Amendment Number Seven to Credit Agreement ("Extension and Amendment") with the banks. The Extension and Amendment provided that the banks agreed to extend the Forbearance Period until May 18, 2007. The Extension and Amendment also acknowledged that we continued not to be in compliance with the financial covenants identified above for the fiscal quarter ended December 31, 2006 and did not contemplate being in compliance for the fiscal quarter ending March 31, 2007.

Effective May 18, 2007, we entered into Extension of Forbearance and Amendment Number Eight to Credit Agreement ("Second Extension and Amendment") with the banks. The Second Extension and Amendment provided that the banks agreed to extend the Forbearance Period until August 15, 2007. The Second Extension and Amendment also acknowledged that we continued not to be in compliance with the financial covenants identified above for the fiscal quarter ended March 31, 2007 and did not contemplate being in compliance for the fiscal quarter ending June 30, 2007.

Effective August 15, 2007, we entered into Amendment Number Nine to Credit Agreement ("Amendment Nine") with the banks. Amendment Nine effectively ended the Forbearance Period and extended the term of the revolving credit component of the facility to January 31, 2009 and the term of the term loan component of the facility to July 1, 2009. Amendment Nine also added several definitions and modified or replaced certain covenants.

Effective April 23, 2008, we entered into Amendment Number Ten to Credit Agreement ("Amendment Ten") with the banks. Amendment Ten increased the amount of the revolving credit facility from $15,000 to $22,500, an increase of $7,500. Additionally, Amendment Ten amended the applicable revolver and term rates under the Credit Agreement from a variable pricing grid based on quarterly financial ratios to a set interest rate structure based on either the current prime rate, or a LIBOR rate plus 250 basis points. As of December 31, 2008, we were in compliance with all of the credit facility covenants, as amended.

As of December 31, 2008, we had $1,167 outstanding under the term loan component of our credit facility with our primary lending bank and $-0- was outstanding under the revolver component. At December 31, 2008, the interest rate on the revolver component was 3.25%. As of December 31, 2008, the revolver arrangement provided for up to $22,500 of borrowing capacity, including outstanding letters of credit. At December 31, 2008, we had no outstanding letters of credit related to this facility, as amended April 23, 2008, leaving $22,500 of additional borrowing capacity.

On January 27, 2009, we entered into an Amended and Restated Credit Agreement (the "Restated Credit Agreement") with JP Morgan Chase Bank, N.A. and Manufacturers and Traders Trust Company (together, the

“Lenders”). The Restated Credit Agreement reflects the previous ten amendments to the original Credit Agreement dated June 30, 2004 between us and the Lenders and modifies certain of those provisions. The Restated Credit Agreement among other things (i) increases the current revolver loan commitment from $22,500 to $35,000, (ii) extends the maturity date of the revolving credit component from January 31, 2009 to June 30, 2010, (iii) modifies the interest rate, and (iv) modifies certain covenants. The rate of interest is based, in general, upon either a LIBOR rate plus a Eurodollar spread or an Alternate Base Rate plus an ABR spread, as that term is defined in the Restated Credit Agreement, within a predetermined grid, which is dependent upon whether Earnings Before Interest and Taxes for the most recently completed fiscal quarter is greater than or less than zero. Generally, borrowings under the Restated Credit Agreement will bear interest based primarily on the Prime Rate plus 50 to 200 basis points or LIBOR plus 300 to 500 basis points. Additionally, among other covenant modifications, the Restated Credit Agreement modifies the financial covenants by (i) revising the debt to earnings ratio and fixed charge coverage ratio and (ii) deleting the current assets to liabilities ratio.

Previously our wholly-owned U.K. subsidiary, Ultralife Batteries (UK) Ltd. (“Ultralife UK”), had a revolving credit facility with a commercial bank in the U.K. This credit facility provided our U.K. operation with additional financing flexibility for its working capital needs. Any borrowings against this credit facility were collateralized with that company’s outstanding accounts receivable balances. During the second quarter of 2008, this credit facility was terminated. The Ultralife UK operations will be funded by operating cash flows and cash advances from Ultralife Corporation, if necessary.

While we believe relations with our lenders are good and we have received waivers as necessary in the past, there can be no assurance that such waivers can always be obtained. In such case, we believe we have, in the aggregate, sufficient cash, cash generation capabilities from operations, working capital, and financing alternatives at our disposal, including but not limited to alternative borrowing arrangements (e.g. asset secured borrowings) and other available lenders, to fund operations in the normal course and repay the debt outstanding under our credit facility.

Continuing volatility in the debt capital markets may affect our ability to access those markets. Notwithstanding these adverse market conditions, we believe that current cash and cash equivalent balances and cash generated from operations, together with access to external sources of funds from the revolving credit facility, will be sufficient to meet our operating and capital needs in the foreseeable future.

Equity Transactions

During 2008, 2007 and 2006, we issued approximately 305,000, 204,000, and 200,000 shares of common stock, respectively, as a result of exercises of stock options and warrants. We received approximately $2,526 in 2008, $1,314 in 2007 and $1,231 in 2006 in cash proceeds as a result of these transactions.

During 2008, 2007 and 2006, we issued restricted stock awards of -0-, 51,548 and 85,668 shares of our common stock, respectively, to certain officers and directors, with various vesting schedules related to time and performance. At December 31, 2008, 67,352 shares had vested.

During 2008, 2007 and 2006, we issued 12,737, -0- and -0- unrestricted shares of common stock, respectively, to directors.

In November 2007, we completed a limited public offering, whereby 1,000,000 shares of our common stock were issued. Total net proceeds from the offering were approximately $12,600, of which $6,000 was used for the Stationary Power acquisition cash payment, $3,500 was used as a prepayment on the subordinated convertible notes that were issued as partial consideration for the McDowell acquisition, and $1,000 was used as a repayment of borrowings outstanding under our credit facility used to fund the RedBlack acquisition. The remainder of the proceeds was used for general working capital purposes.

In connection with our May 2006 stock purchase of ABLE, we issued a combination of shares and warrants exercisable for shares of our common stock to the previous owners of ABLE as part of the purchase price. The equity portion of the purchase price consisted of 96,247 shares of our common stock valued at $1,000, based on the closing price of the stock on the closing date of the acquisition, and 100,000 stock warrants with a five-year term valued at $526, for a total equity consideration of $1,526. In January 2008, 82,000 warrants were exercised.

In connection with our July 2006 acquisition of substantially all of the assets of McDowell, we issued to McDowell a non-transferable, subordinated convertible promissory note in the principal amount of $20,000 as part of the purchase price. The $20,000 convertible note carried a five-year term, an annual interest rate of 4% and was convertible at $15 per share into 1.33 million shares of our common stock, with a forced conversion feature, at our option, at any time after the

30-day average closing price of our common stock exceeded $17.50 per share. The conversion price was subject to adjustment as defined in the subordinated convertible promissory note. Interest was payable quarterly in arrears, with all unpaid accrued interest and outstanding principal due in full on July 3, 2011. In April 2007, in connection with its dissolution, McDowell distributed the convertible note to its previous owners in proportion to their ownership interests, resulting in six separate convertible notes aggregating to $20,000. On November 16, 2007, we finalized a settlement agreement with the sellers of McDowell, which resolved various operational issues that arose during the first several months following the acquisition that significantly reduced our profit margins. The settlement agreement reduced the overall purchase price by approximately $7,900, by reducing the principal amount on the convertible notes from $20,000 to $14,000, and eliminating the $1,889 liability related to the purchase price adjustment. In addition, the interest rate on the convertible notes was increased from 4% to 5% and we made prepayments totaling $3,500 on the convertible notes. In January 2008, the convertible notes were converted in full into 700,000 shares of our common stock.

In connection with our November 2007 acquisition of all of the issued and outstanding shares of common stock of Stationary Power, we issued, to the previous owner of Stationary Power, a subordinated convertible promissory note in the principal amount of $4,000 as part of the purchase price. The $4,000 convertible note carries a three-year term, an annual interest rate of 5% and is convertible at $15 per share into 266,667 shares of our common stock, with a forced conversion feature at $17.00 per share. The conversion price is subject to adjustment as defined in the subordinated convertible promissory note. Interest is payable quarterly in arrears, with all unpaid accrued interest and outstanding principal due in full on November 16, 2010. In addition, on the achievement of certain post-acquisition sales milestones, we will issue up to an aggregate amount of 100,000 shares of our common stock.

In connection with our November 2007 acquisition of all of the issued and outstanding shares of common stock of RPS, we issued 100,000 shares of our common stock valued at $1,383.

In connection with our November 2008 acquisition of certain assets of USE, on the achievement of certain post-acquisition financial milestones, we will issue up to an aggregate amount of 200,000 unregistered shares of our common stock.

We utilized securities as consideration in these transactions in part to reduce the need to draw on the liquidity provided by our cash and cash equivalents and revolving credit facility.

In October 2008, the Board of Directors authorized a share repurchase program of up to $10,000 to be implemented over the course of a six-month period. Repurchases may be made from time to time at management's discretion, either in the open market or through privately negotiated transactions. The repurchases will be made in compliance with Securities and Exchange Commission guidelines and will be subject to market conditions, applicable legal requirements, and other factors. We have no obligation under the program to repurchase shares and the program may be suspended or discontinued at any time without prior notice. We intend to fund the purchase price for shares acquired primarily with current cash on hand and cash generated from operations, in addition to borrowing from our credit facility, if necessary. As of December 31, 2008, approximately $8,185 remained of the $10,000 approved repurchase amount.

Other Matters

We continue to be optimistic about our future prospects and growth potential. We continually explore various sources of liquidity to ensure financing flexibility, including leasing alternatives, issuing new or refinancing existing debt, and raising equity through private or public offerings. Although we stay abreast of such financing alternatives, we believe we have the ability during the next 12 months to finance our operations primarily through internally generated funds or through the use of additional financing that currently is available to us. In the event that we are unable to finance our operations with the internally generated funds or through the use of additional financing that currently is available to us, we may need to seek additional credit or access capital markets for additional funds. We can provide no assurance, given the current state of credit markets, that we would be successful in this regard.

If we are unable to achieve our plans or unforeseen events occur, we may need to implement alternative plans. While we believe we can complete our original plans or alternative plans, if necessary, there can be no assurance that such alternatives would be available on acceptable terms and conditions or that we would be successful in our implementation of such plans.

As described in Part I, Item 3, "Legal Proceedings" of this report, we are involved in certain environmental matters with respect to our facility in Newark, New York. Although we have reserved for expenses related to this potential

exposure, there can be no assurance that such reserve will be adequate. The ultimate resolution of this matter may have a significant adverse impact on the results of operations in the period in which it is resolved.

With respect to our battery products, we typically offer warranties against any defects due to product malfunction or workmanship for a period up to one year from the date of purchase. With respect to our communications accessory products, we typically offer a four-year warranty. We also offer a 10-year warranty on our 9-volt batteries that are used in ionization-type smoke detector applications. 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.

Contractual Obligations

	Payments due by period				
	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
Contractual Obligations:					
Long-Term Debt Obligations	$ 5,658	$ 1,305	$ 4,262	$ 91	$ —
Expected Interest Payments	539	291	236	12	—
Capital Lease Obligations	437	120	243	74	—
Operating Lease Obligations	2,227	869	955	403	—
Purchase Obligations	26,455	26,455	—	—	—
Total	$ 35,316	$ 29,040	$ 5,696	$ 580	$ —

Expected interest payments are calculated assuming a 6.48% annual rate on outstanding debt principal, 3.25% annual rate on the outstanding revolver balance, plus associated fees related to the our credit facility; the applicable annual interest rates ranging from 0.00% to 12.02% for various notes payable for equipment and vehicles; and a 5.00% annual rate on the outstanding principal related to the subordinated convertible notes payable. Purchase obligations consist of commitments for property, plant and equipment, open purchase orders for materials and supplies, and other general commitments for various service contracts.

Off-Balance Sheet Arrangements

The Company has no off-balance sheet arrangements.

Outlook

Based on current visibility, management expects revenue for the full year of 2009 to be at least $250,000 with operating income of approximately $20,000, based on our outlook for order opportunities and strong demand for the our products and services. Management expects strong 2009 revenue growth in its Rechargeable Products segment, in addition to year-over-year increases in the Non-Rechargeable Products and Design and Installation Services segments. Management expects another strong year in 2009 for Communications Systems, though it expects less revenue as the large orders for advanced communications systems that were shipped in 2008 are not expected to reoccur at the same level.

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 generally accepted accounting principles in the U.S. 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.

Service Contracts — Revenue from the sale of installation services is recognized upon customer acceptance, generally the date of installation. Revenue from fixed price engineering contracts is recognized on a proportional method, measured by the percentage of actual costs incurred to total estimated costs to complete the contract. Revenue from time and material engineering contracts is recognized as work progresses through monthly billings of time and materials as they are applied to the work pursuant to the terms in the respective contract. Revenue from customer maintenance agreements is recognized using the straight-line method over the term of the related agreements, which range from six months to three years.

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 to 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 is recognized.

Environmental Issues:

Environmental expenditures that relate to current operations are expensed or capitalized, as appropriate, in accordance with the American Institute of Certified Public Accountants (“AICPA”) Statement of Position (“SOP”) 96-1, “Environmental Remediation Liabilities”. 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:

In accordance with SFAS No. 141, “Business Combinations,” the purchase price paid to effect an acquisition is allocated to the acquired tangible and intangible assets and liabilities at fair value. In accordance with SFAS No. 142, “Goodwill and Other Intangible Assets,” 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 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.

Stock-Based Compensation:

We follow the provisions of SFAS No. 123 (revised 2004), "Share-Based Payment" ("SFAS 123R"), which requires that compensation cost relating to share-based payment transactions be 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). 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. A blended volatility factor was deemed to be more appropriate as we believe that implied volatility, a forward-looking measure, provides a more market-driven valuation related to investors' expectations of the volatility of our business, and provides a balance against focusing only on a historical measure. 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.

Income Taxes:

We apply SFAS No. 109, "Accounting for Income Taxes", in accounting for income taxes. 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 December 2006, we placed a full valuation allowance on our deferred tax assets arising from our conclusion that it was more likely than not that we would not be able to utilize our U.S. NOL's that had accumulated over time. The recognition of the full valuation allowance on our deferred tax asset resulted from our evaluation of all available evidence, both positive and negative, including recent historical net income/losses, income/losses on a cumulative three-year basis; and as well as other objective evidence. As of December 31, 2007, we continued to recognize a full valuation allowance on our deferred tax assets, based on a consistent evaluation methodology that was used for 2006 and arising from our conclusion that it is more likely than not that we would not be able to utilize our U.S. NOL's that have accumulated over time. As of December 31, 2008, we continue to recognize a valuation allowance on our deferred tax assets to the extent they are not able to be offset by future reversing temporary differences. The assessment of the realizability of the of the U.S. NOL was based on a number of factors including, our history of net operating losses, the volatility of the company's earnings, our historical operating volatility and our historical ability to accurately forecast earnings for future periods as well the increased uncertainty of the general business climate as of the end of 2008. We concluded that these factors represent sufficient negative evidence and have concluded that we should record a full valuation allowance under SFAS No. 109. Achieving business plan targets, particularly those relating to revenue and profitability, is integral to our assessment regarding the recoverability of our net deferred tax asset. (See Note 8 in the Notes to the Consolidated Financial Statements for additional information.)

Recent Accounting Pronouncements

In June 2008, the Financial Accounting Standards Board ("FASB") ratified the consensus reached on Emerging Issues Task Force Issue No. 07-05, "Determining Whether an Instrument (or Embedded Feature) Is Indexed to an Entity's Own Stock" ("EITF Issue No. 07-5"). EITF Issue No. 07-05 clarifies the determination of whether an instrument (or an embedded feature) is indexed to an entity's own stock, which would qualify as a scope exception under SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities". EITF Issue No. 07-05 is effective for financial statements issued for fiscal years beginning after December 15, 2008. Early adoption for an existing instrument is not permitted. We do not expect the adoption of this pronouncement to have a significant impact on our financial statements.

In May 2008, the Financial Accounting Standards Board ("FASB") issued SFAS No. 162, "The Hierarchy of Generally Accepted Accounting Principles" ("SFAS No. 162"). SFAS No. 162 identifies the sources of accounting principles and the framework for selecting principles to be used in the preparation of financial statements of nongovernmental entities that are presented in conformity with generally accepted accounting principles in the United States. The FASB does not expect that SFAS No. 162 will result in a change in current practice. However, transition provisions have been provided in the unusual circumstance that the application of the provisions of SFAS No. 162 results in a change in practice. SFAS No. 162 is effective 60 days following the SEC's approval of the Public Company Accounting Oversight Board amendments to AU Section 411, "The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles." The SEC approved the amendments on September 15, 2008; therefore, SFAS No. 162 was effective November 15, 2008. The adoption of this pronouncement did not have a significant impact on our financial statements.

In May 2008, the FASB issued FASB Staff Position No. APB 14-1, "Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)" ("FSP No. APB 14-1"). FSP No. APB 14-1 clarifies that convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement) are not addressed by paragraph 12 of APB Opinion No. 14, "Accounting for Convertible Debt and Debt Issued with Stock Purchase Warrants." Additionally, FSP No. APB 14-1 specifies that issuers of such instruments should separately account for the liability and equity components in a manner that will reflect the entity's nonconvertible debt borrowing rate when interest cost is recognized in subsequent periods. FSP No. APB 14-1 is effective for financial statements issued for fiscal years and interim periods beginning after December 15, 2008. We do not expect the adoption of this pronouncement to have a significant impact on our financial statements.

In April 2008, the FASB issued FASB Staff Position No. SFAS 142-3, "Determination of the Useful Life of Intangible Assets." ("FSP No. SFAS 142-3"). FSP No. SFAS 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS No. 142, "Goodwill and Other Intangible Assets." FSP FAS 142-3 intends to improve the consistency between the useful life of a recognized intangible asset under SFAS No. 142 and the period of expected cash flows used to measure the fair value of the asset under SFAS No. 141 (Revised 2007), "Business Combinations", and other U.S. generally accepted accounting principles. FSP No. SFAS 142-3 is effective for financial statements issued for fiscal years and interim periods beginning after December 15, 2008. We do not expect the adoption of this pronouncement to have a significant impact on our financial statements.

In March 2008, the FASB issued SFAS No. 161, "Disclosures about Derivative Instruments and Hedging Activities, an amendment of FASB Statement No. 133". The statement amends and expands the disclosure requirements of SFAS No. 133 to provide users of financial statements with an enhanced understanding of (i) how and why an entity uses derivative instruments; (ii) how derivative instruments and related hedged items are accounted for under SFAS No. 133 and its related interpretations; and (iii) how derivative instruments and related hedged items affect an entity's financial position, results of operations, and cash flows. The statement also requires (i) qualitative disclosures about objectives for using derivatives by primary underlying risk exposure; (ii) information about the volume of derivative activity; (iii) tabular disclosures about balance sheet location and gross fair value amounts of derivative instruments, income statement, and other comprehensive income location and amounts of gains and losses on derivative instruments by type of contract; and (iv) disclosures about credit-risk-related contingent features in derivative agreements. SFAS No. 161 is effective for financial statements issued for fiscal years or interim periods beginning after November 15, 2008. We do not expect the adoption of this pronouncement to have a significant impact on our financial statements.

In December 2007, the Financial Accounting Standards Board ("FASB") issued SFAS No. 141 (revised 2007), "Business Combinations" ("SFAS No. 141R"), which replaces SFAS 141. The statement retains the purchase method of accounting for acquisitions, but requires a number of changes, including changes in the way assets and liabilities are recognized in purchase accounting. It also changes the recognition of assets acquired and liabilities assumed arising from contingencies, requires the capitalization of in-process research and development at fair value, and requires the expensing of acquisition-related costs as incurred. SFAS No. 141R is effective for fiscal years beginning on or after December 15, 2008 and will apply prospectively to business combinations completed on or after that date. The impact of adopting SFAS No. 141R will be dependent on the future business combinations that we may pursue after its effective date.

In December 2007, the FASB issued SFAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements, an amendment of ARB 51", which changes the accounting and reporting for minority interests. Minority interests will be recharacterized as noncontrolling interests and will be reported as a component of equity separate from the parent's equity, and purchases or sales of equity interests that do not result in a change in control will be accounted for as equity transactions. In addition, net income attributable to the noncontrolling interest will be included in consolidated net income on the face of the income statement and, upon a loss of control, the interest sold, as well as any interest retained, will be recorded at fair value with any gain or loss recognized in earnings. SFAS No. 160 is effective for fiscal years beginning on or after December 15, 2008 and will apply prospectively, except for the presentation and disclosure requirements, which will apply retrospectively. The impact of adopting SFAS No. 160 will be dependent on the structure of future business combinations or partnerships that we may pursue after its effective date.

In February 2007, the FASB issued SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115." SFAS No. 159 permits entities to choose to measure many financial instruments and certain other items at fair value. Unrealized gains and losses on items for which the fair value option has been elected will be recognized in earnings at each subsequent reporting date. SFAS No. 159 is effective for an entity's first fiscal year beginning after November 15, 2007. The adoption of this pronouncement had no significant impact on our financial statements.

In September 2006, the FASB issued SFAS No. 157, “Fair Value Measurements”. SFAS No. 157 provides enhanced guidance for using fair value to measure assets and liabilities. It does not require any new fair value measurements, but does require expanded disclosures to provide information about the extent to which fair value is used to measure assets and liabilities, the methods and assumptions used to measure fair value, and the effect of fair value measures on earnings. SFAS No. 157 is effective for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years, with early adoption encouraged. In February 2008, the FASB issued FASB Staff Position SFAS No. 157-2, “Effective Date of FASB Statement No. 157” (“FSP”). The FSP delayed, for one year, the effective date of SFAS No. 157 for all nonfinancial assets and liabilities, except those that are recognized or disclosed in the financial statements on at least an annual basis. As such, we partially adopted the provisions of SFAS No. 157 effective January 1, 2008. The partial adoption of this statement did not have a material impact on our financial statements. We adopted the remaining provisions of SFAS No. 157 effective January 1, 2009. We expect the adoption of the deferred provisions of SFAS No. 157 to impact the way in which we calculate fair value for assets and liabilities initially measured at fair value in a business combination, our annual impairment review of goodwill and non-amortizable intangible assets, and when conditions exist that require us to calculate the fair value of long-lived assets; however, we do not expect this adoption to have a material impact on our financial statements, except for the additional disclosures that will be required.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK
(Dollars in thousands)

We are exposed to various market risks in the normal course of business, primarily interest rate risk and foreign currency risk. Our primary interest rate risk is derived from our outstanding variable-rate debt obligation. In July 2004, we hedged this risk by entering into an interest rate swap arrangement in connection with the term loan component of our credit facility. Under the swap arrangement, effective August 2, 2004, we received a fixed rate of interest in exchange for a variable rate. The swap rate received was 3.98% for five years and is adjusted accordingly for a Eurodollar spread incorporated in the agreement. As of December 31, 2008, a one basis point change in the Eurodollar spread would have a less than $1 value change.

We are subject to foreign currency risk, due to fluctuations in currencies relative to the U.S. dollar. In the year ended December 31, 2008, approximately 97% of our sales were denominated in U.S. dollars. The remainder of our sales was denominated in U.K. pounds sterling, euros, Australian dollars, Canadian dollars, Indian rupee and Chinese yuan renminbi. A 10% change in the value of the pound sterling, the euro, Australian dollar, Canadian dollar, the rupee or the yuan renminbi to the U.S. dollar would have impacted our revenues in that period by less than 1%. We monitor the relationship between the U.S. dollar and other currencies on a continuous basis and adjust sales prices for products and services sold in these foreign currencies as appropriate to safeguard against the fluctuations in the currency effects relative to the U.S. dollar.

We maintain manufacturing operations in North America, Europe and Asia, and export products internationally. We purchase materials and sell our products in foreign currencies, and therefore currency fluctuations may impact our pricing of products sold and materials purchased. In addition, our foreign subsidiaries maintain their books in local currency, which is translated into U.S. dollars for our consolidated financial statements. A 10% change in local currency relative to the U.S. dollar would have impacted our consolidated income before taxes by approximately $265, or approximately 2%.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The financial statements and schedules listed in Item 15(a)(1) and (2) are included in this Report beginning on page 49.

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Report of Independent Registered Public Accounting Firm

Board of Directors and Shareholders
Ultralife Corporation
Newark, New York

We have audited the accompanying consolidated balance sheets of Ultralife Corporation as of December 31, 2008 and 2007 and the related consolidated statements of operations, changes in shareholders' equity and accumulated other comprehensive income (loss), and cash flows for each of the three years in the period ended December 31, 2008. In connection with our audits of the financial statements, we have also audited the financial statement schedule listed in the accompanying index. These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

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

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Ultralife Corporation at December 31, 2008 and 2007, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2008**,** in conformity with accounting principles generally accepted in the United States of America.

Also, in our opinion, the financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Ultralife Corporation's internal control over financial reporting as of December 31, 2008, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) and our report dated March 12, 2009 expressed an unqualified opinion thereon.

/s/ BDO Seidman, LLP

Troy, Michigan
March 12, 2009

ULTRALIFE CORPORATION
CONSOLIDATED BALANCE SHEETS
(Dollars in Thousands, Except Per Share Amounts)

	December 31, 2008	2007
ASSETS		
Current assets:		
Cash and cash equivalents	$ 1,878	$ 2,245
Trade accounts receivable, net of allowance for doubtful accounts of $1,086 and $485, respectively	30,588	26,540
Inventories	40,465	35,098
Deferred tax asset — current	441	309
Prepaid expenses and other current assets	1,801	4,101
Total current assets	75,173	68,293
Property, plant and equipment, net	18,465	19,365
Other assets:		
Goodwill	22,943	21,180
Intangible assets, net	12,925	13,113
Security deposits	81	97
	35,949	34,390
Total Assets	$ 129,587	$ 122,048
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Current portion of debt and capital lease obligations	$ 1,425	$ 13,423
Accounts payable	20,255	18,326
Income taxes payable	582	—
Accrued compensation	917	974
Accrued vacation	627	928
Deferred revenue	4,534	2,809
Other current liabilities	3,896	5,372
Total current liabilities	32,236	41,832
Long-term liabilities:		
Debt and capital lease obligations	4,670	16,224
Deferred tax liability	3,894	455
Other long-term liabilities	634	530
Total long-term liabilities	9,198	17,209
Commitments and contingencies (Note 6)		
Minority interest in equity of subsidiaries	21	—
Shareholders' equity:		
Preferred stock, par value $0.10 per share, authorized 1,000,000 shares; none issued and outstanding	—	—
Common stock, par value $0.10 per share, authorized 40,000,000 shares; issued — 18,227,009 and 17,208,862, respectively	1,815	1,712
Capital in excess of par value	167,259	152,070
Accumulated other comprehensive income (loss)	(1,930)	69
Accumulated deficit	(74,780)	(88,443)
	92,364	65,408
Less —Treasury stock, at cost - 942,202 and 728,690 shares outstanding, respectively	4,232	2,401
Total shareholders' equity	88,132	63,007
Total Liabilities and Shareholders' Equity	$ 129,587	$ 122,048

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

ULTRALIFE CORPORATION
CONSOLIDATED STATEMENTS OF OPERATIONS
(In Thousands, Except Per Share Amounts)

	Year Ended December 31, 2008	2007	2006
Revenues	$254,700	$137,596	$ 93,546
Cost of products sold	197,757	108,822	76,103
Gross margin	56,943	28,774	17,443
Operating expenses:			
Research and development (including $633, $1,027 and $619 of amortization of intangible assets, respectively)	8,138	7,000	5,097
Selling, general, and administrative (including $1,486, $1,290 and $580 of amortization of intangible assets, respectively)	31,500	21,973	15,303
Total operating expenses	39,638	28,973	20,400
Operating income (loss)	17,305	(199)	(2,957)
Other income (expense):			
Interest income	37	50	126
Interest expense	(967)	(2,234)	(1,424)
Gain on insurance settlement	39	—	191
Gain on McDowell settlement	—	7,550	—
Gain on debt conversion	313	—	—
Minority interest in loss of subsidiaries	38	—	—
Miscellaneous income	777	493	311
Income (loss) before income taxes	17,542	5,660	(3,753)
Income tax provision — current	582	—	—
Income tax provision — deferred	3,297	77	23,735
Total income taxes provision	3,879	77	23,735
Net income (loss)	$ 13,663	$ 5,583	$ (27,488)
Earnings (loss) per share — basic	$ 0.79	$ 0.36	$ (1.84)
Earnings (loss) per share — diluted	$ 0.78	$ 0.36	$ (1.84)
Weighted average shares outstanding — basic	17,230	15,316	14,906
Weighted average shares outstanding — diluted	17,705	15,557	14,906

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

ULTRALIFE CORPORATION
CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY AND
ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS)
(Dollars in Thousands, Except Per Share Amounts)

	Common Stock		Capital in excess of Par Value	Accumulated Other Comprehensive Income (Loss)		Accumulated Deficit	Treasury Stock	Total
	Number of Shares	Amount		Foreign Currency Translation Adjustment	Other Unrealized Net Gain (Loss)			
Balance as of December 31, 2005	15,471,446	$ 1,547	$ 130,530	$ (1,114)	$ 60	$ (66,538)	$ (2,378)	$ 62,107
Comprehensive loss:								
Net loss						(27,488)		(27,488)
Other comprehensive income (loss):								
Foreign currency translation adjustments				743				743
Unrealized loss on interest rate swap arrangements					(10)			(10)
Other comprehensive income								733
Comprehensive loss								(26,755)
Stock-based compensation related to stock options			1,320					1,320
Shares issued and compensation under restricted stock grants	85,668	1	159					160
Shares and stock warrants issued in connection with ABLE acquisition	96,247	10	1,516					1,526
Shares issued under stock option and warrant exercises	199,945	20	1,211					1,231
Balance as of December 31, 2006	15,853,306	$ 1,578	$ 134,736	$ (371)	$ 50	$ (94,026)	$ (2,378)	$ 39,589
Comprehensive income:								
Net income						5,583		5,583
Other comprehensive income (loss):								
Foreign currency translation adjustments				437				437
Unrealized loss on interest rate swap arrangements					(47)			(47)
Other comprehensive income								390
Comprehensive income:								5,973
Stock-based compensation related to stock options			1,648					1,648
Shares issued and compensation under restricted stock grants	51,548	4	497				(23)	478
Shares issued in connection with RPS acquisition	100,000	10	1,373					1,383
Shares issued in connection with limited public offering, net of expenses	1,000,000	100	12,522					12,622
Shares issued under stock option exercises	204,008	20	1,294					1,314
Balance as of December 31, 2007	17,208,862	$ 1,712	$ 152,070	$ 66	$ 3	$ (88,443)	$ (2,401)	$ 63,007
Comprehensive income:								
Net income						13,663		13,663
Other comprehensive income (loss):								
Foreign currency translation adjustments				(1,984)				(1,984)
Unrealized loss on interest rate swap arrangements					(15)			(15)
Other comprehensive loss								(1,999)
Comprehensive income:								11,664
Stock-based compensation related to stock options			1,700				(16)	1,684
Stock-based compensation related to restricted stock grants	—	—	442					442
Shares purchased in connection with stock repurchase program	—	—	—				(1,815)	(1,815)
Shares issued in connection with conversion of convertible notes payable	700,000	70	10,430					10,500
Shares issued to directors	12,737	1	123					124
Shares issued under stock option and warrant exercises	305,410	32	2,494					2,526

Balance as of December 31, 2008	18,227,009	$ 1,815	$ 167,259	$ (1,918)	$ (12)	$ (74,780)	$ (4,232)	$ 88,132

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

ULTRALIFE CORPORATION
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Dollars in Thousands)

	Year Ended December 31, 2008	2007	2006
OPERATING ACTIVITIES			
Net income (loss)	$ 13,663	$ 5,583	$ (27,488)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Depreciation and amortization of financing fees	3,851	3,861	3,667
Amortization of intangible assets	2,119	2,317	1,199
Loss on asset disposal	39	37	152
Gain on insurance settlement	(39)	—	(191)
Foreign exchange gain	(399)	(425)	(285)
Gain on McDowell settlement	—	(7,550)	—
Gain on debt conversion	(313)	—	—
Non-cash stock-based compensation	2,266	2,149	1,480
Minority interest in loss of subsidiaries	(38)	—	—
Changes in deferred income taxes	3,297	77	23,735
Provision for loss on accounts receivable	1,086	101	74
Provision for inventory obsolescence	2,850	1,323	90
Provision for warranty charges	1,010	210	131
Provision for workers' compenstion obligation	—	—	350
Changes in operating assets and liabilities, net of effects from acquisitions:			
Accounts receivable	(5,507)	83	(8,866)
Inventories	(9,170)	(7,348)	(2,366)
Prepaid expenses and other current assets	2,530	(1,157)	143
Insurance receivable relating to fires	202	682	602
Income taxes payable	582	—	19
Accounts payable and other liabilities	864	1,626	7,705
Net cash provided by operating activities	19,058	1,569	151
INVESTING ACTIVITIES			
Purchase of property and equipment	(3,787)	(2,073)	(1,455)
Payment for acquired companies, net of cash acquired	(3,171)	(8,678)	(7,013)
Net cash used in investing activities	(6,958)	(10,751)	(8,468)
FINANCING ACTIVITIES			
Net change in revolving credit facilities	(11,204)	3,308	6,475
Proceeds from issuance of common stock	2,526	13,936	1,231
Principal payments on debt and capital lease obligations	(2,230)	(6,817)	(2,046)
Purchase of treasury stock	(1,815)	—	—
Net cash provided by (used in) financing activities	(12,723)	10,427	5,660
Effect of exchange rate changes on cash	256	280	163
Change in cash and cash equivalents	(367)	1,525	(2,494)
Cash and cash equivalents at beginning of period	2,245	720	3,214
Cash and cash equivalents at end of period	$ 1,878	$ 2,245	$ 720
SUPPLEMENTAL CASH FLOW INFORMATION			
Cash paid for interest	$ 934	$ 2,175	$ 992
Cash paid for income taxes	$ —	$ —	$ 5
Noncash investing and financing activities:			
Issuance of common stock and stock warrants for acquired companies	$ —	$ 1,383	$ 1,526
Issuance of convertible notes payable for acquired companies	$ —	$ 4,000	$ 20,000
Purchase of property and equipment via capital lease payable	$ 98	$ 545	$ —
Conversion of convertible notes into shares of common stock	$ 10,500	$ —	$ —

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

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 portable and standby 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, standby power systems, communications and electronics systems and accessories, and custom engineered systems, solutions and services. We sell our products worldwide through a variety of trade channels, including original equipment manufacturers (“OEMs”), industrial and retail distributors, national retailers 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 and include the accounts of Ultralife Corporation (formerly Ultralife Batteries, Inc.), our wholly owned subsidiaries, Ultralife Batteries (UK) Ltd., ABLE New Energy Co., Limited, and its wholly-owned subsidiary ABLE New Energy Co., Ltd., McDowell Research Co., Inc., RedBlack Communications, Inc. (formerly Innovative Solutions Consulting, Inc.), Stationary Power Services, Inc. and RPS Power Systems, Inc. (formerly Reserve Power Systems, Inc.), and our majority owned subsidiary Ultralife Batteries India Private Limited. Intercompany accounts and transactions have been eliminated in consolidation. Investments in entities in which we do not have a controlling interest are accounted for using the equity method, if our interest is greater than 20%. Investments in entities in which we have less than a 20% ownership interest are accounted for using the cost method.

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

The preparation of financial statements in conformity with generally accepted accounting principles 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) reserves for deferred tax assets, excess and obsolete inventory, warranties, and bad debts; (b) profitability on development contracts; (c) various expense accruals; (d) stock-based compensation; and, (e) carrying value of goodwill and intangible assets. Actual results could differ from those 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.

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. Such losses have been within management’s expectations.

Changes in our allowance for doubtful accounts during the years ended December 31, 2008, 2007 and 2006 were as follows:

	2008	2007	2006
Balance at beginning of year	$ 485	$447	$458
Amounts charged (credited) to expense	675	101	74
Amounts charged (credited) to other accounts	(11)	6	—
Uncollectible accounts written-off, net of recovery	(63)	(69)	(85)
Balance at end of year	$1,086	$485	$447

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. 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. During the year ended December 31, 2008, we recorded an impairment on long-lived assets of $138, in connection with our restructuring of the U.K. facility operations. We did not record any impairment of long-lived assets in the years ended December 31, 2007 or 2006.

In accordance with Statement of Financial Accounting Standards (“SFAS”) No. 142, “Goodwill and Other Intangible Assets,” 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 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.

Based on the current preliminary valuations for amortizable intangible assets acquired in the USE acquisition during 2008, and the final valuations for amortizable intangible assets acquired in the RedBlack and Stationary Power acquisitions during 2007 and the ABLE and McDowell acquisitions during 2006, we project our amortization expense will be approximately $1,632, $1,207, $980, $794 and $651 for the fiscal years ending December 31, 2009 through 2013, respectively.

j. *Translation of Foreign Currency*

The financial statements of our foreign affiliates are translated into U.S. dollar equivalents in accordance with SFAS No. 52, “Foreign Currency Translation”, with translation adjustments recorded as a component of accumulated other comprehensive income. Exchange gains (losses) relate to foreign currency transactions included in net income (loss) for the years ended December 31, 2008, 2007 and 2006 were $399, $425, and $285, 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 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.

Services — Revenue from the sale of installation services is recognized upon customer acceptance, generally the date of installation. Revenue from fixed price engineering contracts is recognized on a proportional method, measured by the percentage of actual costs incurred to total estimated costs to complete the contract. Revenue from time and material engineering contracts is recognized as work progresses through monthly billings of time and materials as they are applied to the work pursuant to the terms in the respective contract. Revenue from customer maintenance agreements is recognized using the straight-line method over the term of the related agreements, which range from six months to three years.

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 $940, $443, and $320 for the years ended December 31, 2008, 2007 and 2006, 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.

p. *Environmental Costs*

Environmental expenditures that relate to current operations are expensed or capitalized, as appropriate, in accordance with the American Institute of Certified Public Accountants (“AICPA”) Statement of Position (“SOP”) 96-1, “Environmental Remediation Liabilities”. 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*

The asset and liability method, prescribed by SFAS No. 109, “Accounting for Income Taxes”, is used in accounting for income taxes. 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. For the year ended December 31, 2008, we continued to recognize a full valuation allowance on our deferred tax asset to the extent they are not able to be offset by future reversing temporary differences, based on a consistent evaluation methodology that was used for 2006 and 2007. As of December 31, 2008 we continue to recognize a valuation allowance for our deferred tax assets to the extent they 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 factors including, our history of net operating losses, the volatility of our earnings, our historical operating volatility, our historical ability to accurately forecast earnings for future periods and the increased uncertainty of the general business climate as of the end of 2008. We concluded that these factors represent sufficient negative evidence and have concluded that we should record a full valuation allowance under SFAS No. 109. For the years ended December 31, 2006 and 2007, we recorded a full valuation allowance on our net deferred tax asset, due to the determination that it was more likely than not that we would not be able to utilize these benefits in the future. Because of the negative evidence at December 31, 2006 and 2007, such as our operating results during the most recent historical periods, our cumulative loss during our most recent three-year period, and uncertainty of future earnings, we determined the need for a full valuation allowance under SFAS No. 109. A valuation allowance was required for the years ended December 31, 2008, 2007 and 2006 related to our U.K. subsidiary due to the history of losses at that facility.

In June 2006, the FASB issued FASB Interpretation No. 48, “Accounting for Uncertainty in Income Taxes, an interpretation of SFAS No. 109” (“FIN 48”). This statement clarifies the accounting for uncertainty in income taxes recognized in a company’s financial statements in accordance with SFAS No. 109, Accounting for Income Taxes. This Interpretation prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. This Interpretation also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition. The provisions of FIN 48 were effective for fiscal years beginning after December 15, 2006. The adoption of this pronouncement on January 1, 2007 had no significant impact on our financial statements.

r. *Concentration Related to Customers and Suppliers*

During the year ended December 31, 2008, we had two major customers, Raytheon Company and Port Electronics Corp., which comprised 29% and 16% of our revenue, respectively. During the year ended December 31, 2007, we had three major customers, the U.S. Department of Defense, the U.K. Ministry of Defence and Raytheon Company, which comprised 14%, 12%, and 13% of our revenue, respectively. During the year ended December 31, 2006, we had one major customer, the U.S. Department of Defense, which comprised 20% of our revenue. There were no other customers that comprised greater than 10% of our total revenues during the years ended December 31, 2008, 2007 and 2006.

We have two customers that comprised 36% of our trade accounts receivables as of December 31, 2008. We have two customers that comprised 42% of our trade accounts receivable as of December 31, 2007. There were no other customers that comprised greater than 10% of our total trade accounts receivable as of December 31, 2008 and 2007.

Currently, we do not experience significant seasonal trends in non-rechargeable product revenues. However, a downturn in the U.S. economy, such as the one that we are currently experiencing, which affects retail sales and which could result in fewer sales of smoke detectors to consumers, could potentially result in lower sales for us to this market segment. The smoke detector OEM market segment comprised approximately 8% of total non-rechargeable revenues in 2008. Additionally, lower demand from the U.S., U.K. and other foreign governments could result in lower sales to defense and government users.

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 sales to the U.S. Department of Defense have been substantial during 2008, 2007 and 2006, 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. For example, in the fourth quarter of 2007, we ramped up production levels in our Communications Systems business to meet increased order volumes. A sole-source supplier of a key component was unable to meet an agreed-upon delivery schedule which caused a delay in shipments of our products to our customers.

s. *Fair Value of Financial Instruments*

On January 1, 2008, we partially adopted SFAS No. 157, “Fair Value Measurements”. SFAS No. 157 provides enhanced guidance for using fair value to measure assets and liabilities. It does not require any new fair value measurements, but does require expanded disclosures to provide information about the extent to which fair value is used to measure assets and liabilities, the methods and assumptions used to measure fair value, and the effect of fair value measures on earnings. In February 2008, the FASB issued FASB Staff Position SFAS No. 157-2, “Effective Date of FASB Statement No. 157” (“FSP”). The FSP delayed, for one year, the effective date of SFAS No. 157 for all nonfinancial assets and liabilities, except those that are recognized or disclosed in the financial statements on at least an annual basis. As such, we partially adopted the provisions of SFAS No. 157. We adopted the remaining provisions of SFAS No. 157 effective January 1, 2009. We expect the adoption of the deferred provisions of SFAS No. 157 to impact the way in which we calculate fair value for assets and liabilities initially measured at fair value in a business combination, our annual impairment review of goodwill and non-amortizable intangible assets, and when conditions exist that require us to calculate the fair value of long-lived assets; however, we do not expect this adoption to have a material impact on our financial statements, except for the additional disclosures that will be required.

SFAS No. 107, “Disclosure About Fair Value of Financial Instruments”, requires disclosure of an estimate of the fair value of certain financial instruments. The fair value of financial instruments pursuant to SFAS No. 107 approximated their carrying values at December 31, 2008 and 2007. Fair values have been determined through information obtained from market sources.

t. *Derivative Financial Instruments*

Derivative instruments are accounted for in accordance with SFAS No. 133, “Accounting for Derivative Instruments and Hedging Activities” which requires that all derivative instruments be recognized in the financial statements at fair value. The fair value of our interest rate swap at December 31, 2008 and 2007 resulted in a liability of $12 and an asset of $4, respectively, all of which was reflected as short term.

u. *Earnings (Loss) Per Share*

We account for earnings (loss) per common share in accordance with the provisions of SFAS No. 128, “Earnings Per Share”. SFAS No. 128 requires the reporting of basic and diluted earnings per share (“EPS”). Basic EPS is computed by dividing reported earnings available to common shareholders by weighted average shares outstanding for the period. Diluted EPS includes the dilutive effect of securities, if any, calculated using the treasury stock method. There were 1,301,383 outstanding stock options, warrants and restricted stock awards as of December 31, 2008 that were not included in EPS as the effect would be anti-dilutive. The dilutive effect of 421,988 outstanding stock options, warrants and restricted stock awards and 320,513 shares of common stock reserved under convertible notes payable were included in the dilution computation for the year ended December 31, 2008. There were 1,573,325 and 1,915,471 outstanding stock options, warrants and restricted stock awards as of December 31, 2007 and 2006, respectively, that were not included in EPS as the effect would be anti-dilutive. We also had 966,667 and 1,333,333 shares of common stock at December 31, 2007 and 2006, respectively reserved under convertible notes payable, which were not included in EPS as the effect would be anti-dilutive. The dilutive effect of 392,041 outstanding stock options, warrants and restricted stock awards was included in the dilution computation for the year ended December 31, 2007. For year ended December 31, 2006, diluted earnings (loss) per share was the equivalent of basic earnings (loss) per share due to the net loss. (See Note 7)

The computation of basic and diluted earnings per share is summarized as follows:

	Year Ended December 31,		
	2008	2007	2006
Net Income (Loss) (a)	$ 13,663	$ 5,583	$ (27,488)
Effect of Dilutive Securities:			
Convertible Notes Payable	215	—	—
Net Income (Loss) — Adjusted (b)	$ 13,878	$ 5,583	$ (27,488)
Average Shares Outstanding — Basic (c)	17,230	15,316	14,906
Effect of Dilutive Securities:			
Stock Options / Warrants	130	222	—
Restricted Stock Awards	24	19	—
Convertible Notes Payable	321	—	—
Average Shares Outstanding — Diluted (d)	17,705	15,557	14,906
EPS — Basic (a/c)	$ 0.79	$ 0.36	$ (1.84)
EPS — Diluted (b/d)	$ 0.78	$ 0.36	$ (1.84)

v. *Stock-Based Compensation*

We have various stock-based employee compensation plans, which are described more fully in Note 7. We follow the provisions of SFAS No. 123 (revised 2004), “Share-Based Payment” (“SFAS 123R”), which requires that compensation cost relating to share-based payment transactions be 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).

w. *Segment Reporting*

We report segment information in accordance with SFAS No. 131, “Disclosures about Segments of an Enterprise and Related Information”. We have four operating segments. The basis for determining our operating segments is the manner in which financial information is used by us in our operations. Management operates and organizes itself according to business units that comprise unique products and services across geographic locations.

x. *Recent Accounting Pronouncements*

In June 2008, the Financial Accounting Standards Board (“FASB”) ratified the consensus reached on Emerging Issues Task Force Issue No. 07-05, “Determining Whether an Instrument (or Embedded Feature) Is Indexed to an Entity’s Own Stock” (“EITF Issue No. 07-5”). EITF Issue No. 07-05 clarifies the determination of whether an instrument (or an embedded feature) is indexed to an entity’s own stock, which would qualify as a scope exception under SFAS No. 133, “Accounting for Derivative Instruments and Hedging Activities”. EITF Issue No. 07-05 is effective for financial statements issued for fiscal years beginning after December 15, 2008. Early adoption for an existing instrument is not permitted. We do not expect the adoption of this pronouncement to have a significant impact on our financial statements.

In May 2008, the Financial Accounting Standards Board (“FASB”) issued SFAS No. 162, “The Hierarchy of Generally Accepted Accounting Principles” (“SFAS No. 162”). SFAS No. 162 identifies the sources of accounting principles and the framework for selecting principles to be used in the preparation of financial statements of nongovernmental entities that are presented in conformity with generally accepted accounting principles in the United States. The FASB does not expect that SFAS No. 162 will result in a change in current practice. However, transition provisions have been provided in the unusual circumstance that the application of the provisions of SFAS No. 162 results in a change in practice. SFAS No. 162 is effective 60 days following the SEC’s approval of the Public Company Accounting Oversight Board amendments to AU Section 411, “The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles.” The SEC approved the amendments on September 15, 2008; therefore, SFAS No. 162 was effective November 15, 2008. The adoption of this pronouncement did not have a significant impact on our financial statements.

In May 2008, the FASB issued FASB Staff Position No. APB 14-1, “Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)” (“FSP No. APB 14-1”). FSP No. APB

14-1 clarifies that convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement) are not addressed by paragraph 12 of APB Opinion No. 14, “Accounting for Convertible Debt and Debt Issued with Stock Purchase Warrants.” Additionally, FSP No. APB 14-1 specifies that issuers of such instruments should separately account for the liability and equity components in a manner that will reflect the entity’s nonconvertible debt borrowing rate when interest cost is recognized in subsequent periods. FSP No. APB 14-1 is effective for financial statements issued for fiscal years and interim periods beginning after December 15, 2008. We do not expect the adoption of this pronouncement to have a significant impact on our financial statements.

In April 2008, the FASB issued FASB Staff Position No. SFAS 142-3, “Determination of the Useful Life of Intangible Assets.” (“FSP No. SFAS 142-3”). FSP No. SFAS 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS No. 142, “Goodwill and Other Intangible Assets.” FSP FAS 142-3 intends to improve the consistency between the useful life of a recognized intangible asset under SFAS No. 142 and the period of expected cash flows used to measure the fair value of the asset under SFAS No. 141 (Revised 2007), “Business Combinations”, and other U.S. generally accepted accounting principles. FSP No. SFAS 142-3 is effective for financial statements issued for fiscal years and interim periods beginning after December 15, 2008. We do not expect the adoption of this pronouncement to have a significant impact on our financial statements.

In March 2008, the FASB issued SFAS No. 161, “Disclosures about Derivative Instruments and Hedging Activities, an amendment of FASB Statement No. 133”. The statement amends and expands the disclosure requirements of SFAS No. 133 to provide users of financial statements with an enhanced understanding of (i) how and why an entity uses derivative instruments; (ii) how derivative instruments and related hedged items are accounted for under SFAS No. 133 and its related interpretations; and (iii) how derivative instruments and related hedged items affect an entity’s financial position, results of operations, and cash flows. The statement also requires (i) qualitative disclosures about objectives for using derivatives by primary underlying risk exposure; (ii) information about the volume of derivative activity; (iii) tabular disclosures about balance sheet location and gross fair value amounts of derivative instruments, income statement, and other comprehensive income location and amounts of gains and losses on derivative instruments by type of contract; and (iv) disclosures about credit-risk-related contingent features in derivative agreements. SFAS No. 161 is effective for financial statements issued for fiscal years or interim periods beginning after November 15, 2008. We do not expect the adoption of this pronouncement to have a significant impact on our financial statements.

In December 2007, the Financial Accounting Standards Board (“FASB”) issued SFAS No. 141 (revised 2007), “Business Combinations” (“SFAS No. 141R”), which replaces SFAS 141. The statement retains the purchase method of accounting for acquisitions, but requires a number of changes, including changes in the way assets and liabilities are recognized in purchase accounting. It also changes the recognition of assets acquired and liabilities assumed arising from contingencies, requires the capitalization of in-process research and development at fair value, and requires the expensing of acquisition-related costs as incurred. SFAS No. 141R is effective for fiscal years beginning on or after December 15, 2008 and will apply prospectively to business combinations completed on or after that date. The impact of adopting SFAS No. 141R will be dependent on the future business combinations that we may pursue after its effective date.

In December 2007, the FASB issued SFAS No. 160, “Noncontrolling Interests in Consolidated Financial Statements, an amendment of ARB 51”, which changes the accounting and reporting for minority interests. Minority interests will be recharacterized as noncontrolling interests and will be reported as a component of equity separate from the parent’s equity, and purchases or sales of equity interests that do not result in a change in control will be accounted for as equity transactions. In addition, net income attributable to the noncontrolling interest will be included in consolidated net income on the face of the income statement and, upon a loss of control, the interest sold, as well as any interest retained, will be recorded at fair value with any gain or loss recognized in earnings. SFAS No. 160 is effective for fiscal years beginning on or after December 15, 2008 and will apply prospectively, except for the presentation and disclosure requirements, which will apply retrospectively. The impact of adopting SFAS No. 160 will be dependent on the structure of future business combinations or partnerships that we may pursue after its effective date.

In February 2007, the Financial Accounting Standards Board (“FASB”) issued SFAS No. 159, “The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115.” SFAS No. 159 permits entities to choose to measure many financial instruments and certain other items at fair value. Unrealized gains and losses on items for which the fair value option has been elected will be recognized in earnings at each subsequent reporting date. SFAS No. 159 is effective for an entity’s first fiscal year beginning after November 15, 2007. The adoption of this pronouncement had no significant impact on our financial statements.

In September 2006, the FASB issued SFAS No. 157, “Fair Value Measurements”. SFAS No. 157 provides enhanced guidance for using fair value to measure assets and liabilities. It does not require any new fair value measurements, but does require expanded disclosures to provide information about the extent to which fair value is used to measure assets and liabilities, the methods and assumptions used to measure fair value, and the effect of fair value measures on earnings. SFAS No. 157 is effective for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years, with early adoption encouraged. In February 2008, the FASB issued FASB Staff Position SFAS No. 157-2, “Effective Date of FASB Statement No. 157” (“FSP”). The FSP delayed, for one year, the effective date of SFAS No. 157 for all nonfinancial assets and liabilities, except those that are recognized or disclosed in the financial statements on at least an annual basis. As such, we partially adopted the provisions of SFAS No. 157 effective January 1, 2008. The partial adoption of this statement did not have a material impact on our financial statements. We adopted the remaining provisions of SFAS No. 157 effective January 1, 2009. We expect the adoption of the deferred provisions of SFAS No. 157 to impact the way in which we calculate fair value for assets and liabilities initially measured at fair value in a business combination, our annual impairment review of goodwill and non-amortizable intangible assets, and when conditions exist that require us to calculate the fair value of long-lived assets; however, we do not expect this adoption to have a material impact on our financial statements, except for the additional disclosures that will be required.

Note 2 — Acquisitions

We accounted for the following acquisitions in accordance with the purchase method of accounting provisions of SFAS No. 141, “Business Combinations,” whereby the purchase price paid to effect an acquisition is allocated to the acquired tangible and intangible assets and liabilities at fair value.

2008 Activity

Ultralife Batteries India Private Limited

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 $61 in cash into the India JV, as consideration for our 51% ownership stake in the India JV.

U.S. Energy Systems, Inc. and U.S. Power Services, Inc.

On November 10, 2008, we acquired certain assets of U.S. Energy Systems, Inc., and its services affiliate U.S. Power Services, Inc. (“USE” collectively), a nationally recognized standby power installation and power management services business. USE is located in Riverside, California. The acquired assets of USE are being incorporated into our Stationary Power subsidiary.

Under the terms of the asset purchase agreements for USE, the initial purchase price consisted of $2,865 in cash. In addition, on the achievement of certain post-acquisition financial milestones over a period of up to four years, we will issue up to an aggregate amount of 200,000 unregistered shares of our common stock. The contingent stock issuances will be recorded as an addition to the purchase price when the financial milestones are attained. We incurred $62 in acquisition related costs, which are included in the initial cost of the USE investment of $2,927.

The results of operations of USE and the estimated fair value of assets acquired and liabilities assumed are included in our consolidated financial statements beginning on the acquisition date. Pro forma information has not been presented, as it would not be materially different from amounts reported. The estimated excess of the purchase price over the net tangible and intangible assets acquired of $1,816 was recorded as goodwill in the amount of $1,111. We are in the process of completing the valuations of certain tangible and intangible assets acquired with the new business. The final allocation of the excess of the purchase price over the net assets acquired is subject to revision based upon our final review of valuation assumptions. The acquired goodwill will be assigned to the Design and Installation Services segment and is expected to be fully deductible for income tax purposes.

The following table represents the preliminary allocation of the purchase price to assets acquired and liabilities assumed at the acquisition date:

ASSETS	
Current assets:	
Cash	$ —
Total current assets	—
Property, plant and equipment, net	276
Goodwill	1,111
Intangible Assets:	
Trademarks	383
Patents and Technology	130
Customer Relationships	1,354
Total assets acquired	3,254
LIABILITIES	
Current liabilities:	
Current portion of long-term debt	56
Other current liabilities	43
Total current liabilities	99
Long-term liabilities:	
Debt	228
Total liabilities assumed	327
Total Purchase Price	$ 2,927

Trademarks have an indefinite life and are not being amortized. The intangible assets related to patents and technology and customer relationships are being amortized as the economic benefits of the intangible assets are being utilized over their weighted-average estimated useful life of nineteen years.

2007 Acquisitions

RedBlack Communications, Inc. (formerly Innovative Solutions Consulting, Inc.)

On September 28, 2007, we finalized the acquisition of all of the issued and outstanding shares of common stock of Innovative Solutions Consulting, Inc. (“ISC”), a provider of a wide range of engineering and technical services for communication electronic systems to government agencies and prime contractors. In January 2008, we renamed ISC to RedBlack Communications, Inc. (“RedBlack”). RedBlack is located in Hollywood, Maryland.

The initial cash purchase price was $943 (net of $57 in cash acquired), with up to $2,000 in additional cash consideration contingent on the achievement of certain sales milestones. The additional cash consideration is payable in up to three annual payments and subject to possible adjustments as set forth in the stock purchase agreement. The contingent payments will be recorded as an addition to the purchase price when the performance milestones are attained. The initial $943 cash payment was financed through a combination of cash on hand and borrowings through the revolver component of our credit facility with our primary lending banks. During the second quarter of 2008, we made an election under Section 338(h)(10) of the Internal Revenue Code in relation to RedBlack, and in accordance with the provisions of the purchase agreement, we have made payments of $54 to the sellers of RedBlack to make them substantially whole from a tax perspective. These additional payments are part of the total purchase price, and as such, this adjustment to the purchase price resulted in an increase to goodwill. During the third quarter of 2008, we accrued $182 for the first annual payment of the contingent cash consideration, which is included in the other current liabilities line on our Consolidated Balance Sheet, and resulted in an increase to goodwill of $182. We have incurred $87 in acquisition related costs, which are included in the revised cost of the investment of $1,266 (net of $57 in cash acquired), with a potential total cost of the investment of $3,084 assuming the earn-out of all contingent consideration.

On February 9, 2009, we entered into Amendment No. 1 to the RedBlack stock purchase agreement, which eliminated the up to $2,000 in additional cash consideration contingent on the achievement of certain sales milestones provision, in exchange for a one time final payment of $1,020. The one time final payment of $1,020 was made in February 2009, and will result in an increase to goodwill of $838 (net of the $182 amount that was accrued during the third quarter of 2008) in the first quarter of 2009, and a revised total cost of the investment of $2,104.

The results of operations of RedBlack and the estimated fair value of assets acquired and liabilities assumed are included in our consolidated financial statements beginning on the acquisition date. The estimated excess of the

purchase price over the net tangible and intangible assets acquired of $136 (including $57 in cash) was recorded as goodwill in the amount of $1,187. The acquired goodwill has been assigned to the Design and Installation Services segment and is expected to be fully deductible for income tax purposes.

The following table represents the final allocation of the purchase price to assets acquired and liabilities assumed at the acquisition date:

ASSETS	
Current assets:	
Cash	$ 57
Trade accounts receivables, net	535
Prepaid expenses and other current assets	175
Total current assets	767
Property, plant and equipment, net	687
Goodwill	1,187
Intangible Assets:	
Non-compete agreements	180
Total assets acquired	2,821
LIABILITIES	
Current liabilities:	
Current portion of long-term debt	720
Accounts payable	431
Other current liabilities	159
Total current liabilities	1,310
Long-term liabilities:	
Debt	188
Total liabilities assumed	1,498
Total Purchase Price	$ 1,323

Non-compete agreements are being amortized on a straight-line basis over their estimated useful lives of two years.

The following table summarizes the unaudited pro forma financial information for the periods indicated as if the RedBlack acquisition had occurred at the beginning of the period being presented. The pro forma information contains the actual combined results of RedBlack and us, with the results prior to the acquisition date including pro forma impact of: the amortization of the acquired intangible assets; and the impact on interest expense in connection with funding the cash portion of the acquisition purchase price. These pro forma amounts do not purport to be indicative of the results that would have actually been obtained if the acquisition had occurred as of the beginning of each of the periods presented or that may be obtained in the future.

(in thousands, except per share data)	Years Ended December 31, 2007	2006
Revenues	$139,698	$ 97,284
Net Income (Loss)	$ 5,107	$(28,987)
Earnings (Loss) per share — Basic	$ 0.33	$ (1.94)
Earnings (Loss) per share — Diluted	$ 0.33	$ (1.94)

Stationary Power Services, Inc. and Reserve Power Systems, Inc.

On November 16, 2007, we completed the acquisition of all of the issued and outstanding shares of common stock of Stationary Power Services, Inc. (“Stationary Power”), an infrastructure power management services firm specializing in engineering, installation and preventative maintenance of standby power systems, uninterruptible power supply systems, DC power systems and switchgear/control systems for the telecommunications, aerospace, banking and

information services industries. Stationary Power is located in Clearwater, Florida. Immediately prior to the closing of the Stationary Power acquisition, Stationary Power distributed the real estate assets, along with the corresponding mortgage payable, to the original owner of Stationary Power, as these assets and corresponding liability were not part of our acquisition of Stationary Power. Also on November 16, 2007, we completed the acquisition of all of the issued and outstanding shares of common stock of Reserve Power Systems, Inc., a supplier of lead acid batteries primarily for use by Stationary Power in the design and installation of standby power systems. In June 2008, we renamed Reserve Power Systems, Inc. to RPS Power Systems, Inc. ("RPS"). Stationary Power and RPS were previously affiliated companies due to common ownership interests.

Under the terms of the stock purchase agreement for Stationary Power, the initial purchase price of $10,000 consisted of $5,889 (net of $111 in cash acquired) in cash and a $4,000 subordinated convertible promissory note to be held by the previous owner of Stationary Power. In addition, on the achievement of certain post-acquisition sales milestones, we will issue up to an aggregate amount of 100,000 shares of our common stock. The initial purchase price was subject to a post-closing adjustment based on a final valuation of "Net Worth" on the date of closing, using a base of $500. The final net value of the "Net Worth", under the stock purchase agreement, was $339, resulting in a revised initial purchase price of $9,839. As of December 31, 2008, we have accrued $161 for this receivable, which is included in the prepaid expenses and other current assets line on our Consolidated Balance Sheet. In July 2008, William Maher, former owner of Stationary Power, delivered his promissory note to us in connection with the "Net Worth" adjustment for $161. The promissory note bears interest at the rate of 5% per year and is payable in full, including any unpaid interest thereon, no later than December 31, 2008. In January 2009, we received payment in full for this receivable, including all unpaid accrued interest.

The $6,000 cash payment was financed by a portion of the net proceeds from a limited public offering that we completed on November 16, 2007, whereby 1,000,000 shares of our common stock were issued. Total net proceeds from the offering were approximately $12,600, of which $6,000 was used for the Stationary Power cash payment. The $4,000 subordinated convertible promissory note carries a three-year term, bears interest at the rate of 5% per year and is convertible at $15.00 per share into 266,667 shares of our common stock, with a forced conversion feature at $17.00 per share. We have evaluated the terms of the conversion feature under applicable accounting literature, including SFAS No. 133 and EITF 00-19, "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock" ("EITF 00-19"), and concluded that this feature should not be separately accounted for as a derivative. During the third quarter of 2008, we made an election under Section 338(h)(10) of the Internal Revenue Code in relation to Stationary Power, and in accordance with the provisions of the purchase agreement, we made payments of $19 and have accrued for a payment of $35, totaling $54, to the sellers of Stationary Power to make them substantially whole from a tax perspective. These additional payments are part of the total purchase price, and as such, this adjustment to the purchase price resulted in an increase to goodwill of $54. The accrued payment of $35 is included in the other current liabilities line on our Consolidated Balance Sheet. We incurred $113 in acquisition related costs, which are included in the cost of the Stationary Power investment of $10,006. During the fourth quarter of 2008, $1 of additional acquisition costs were incurred, which resulted in an increase to goodwill of $1.

Under the terms of the stock purchase agreement for RPS, the initial purchase price consisted of 100,000 shares of our common stock, valued at $1,383. In addition, on the achievement of certain post-acquisition sales milestones, we will pay the sellers, in cash, 5% of sales up to the operating plan, as such term is defined in the stock purchase agreement, and 10% of sales that exceed the operating plan, for the remainder of the calendar year 2007 and for calendar years 2008, 2009 and 2010. The additional contingent cash consideration is payable in annual installments, and excludes sales made to Stationary Power, which historically have comprised substantially all of RPS's sales. No contingent cash consideration was recorded for 2007. During 2008, we have accrued $49 for the 2008 portion of the contingent cash consideration, which is included in the other current liabilities line on our Consolidated Balance Sheet. During the fourth quarter of 2008, this accrual was increased by $19, which resulted in an increase to goodwill of $19.

The results of operations of Stationary Power and RPS and the estimated fair value of assets acquired and liabilities assumed are included in our consolidated financial statements beginning on the acquisition date. The estimated excess of the purchase price over the net tangible and intangible assets acquired of $5,940 (including $111 of cash) was recorded as goodwill in the amount of $5,498. The acquired goodwill has been assigned to the Design and Installation Services and the Rechargeable Products segments and is expected to be fully deductible for income tax purposes.

The following table represents the final allocation of the purchase price to assets acquired and liabilities assumed at the acquisition date:

ASSETS	
Current assets:	
Cash	$ 111
Trade accounts receivables, net	1,594
Inventories	1,687
Prepaid expenses and other current assets	52
Total current assets	3,444
Property, plant and equipment, net	324
Goodwill	5,498
Intangible Assets:	
Trademarks	1,300
Patents and Technology	440
Customer Relationships	4,600
Other Assets:	
Security deposits	12
Total assets acquired	15,618
LIABILITIES	
Current liabilities:	
Current portion of long-term debt	1,277
Accounts payable	1,958
Other current liabilities	788
Total current liabilities	4,023
Long-term liabilities:	
Debt	137
Other long-term liabilities	20
Total liabilities assumed	4,180
Total Purchase Price	$ 11,438

Trademarks have an indefinite life and are not being amortized. The intangible assets related to patents and technology and customer relationships are being amortized as the economic benefits of the intangible assets are being utilized over their weighted-average estimated useful life of nineteen years.

In connection with the Stationary Power acquisition, we entered into an operating lease agreement for real property in Clearwater, Florida with a company partially owned by William Maher, former owner of Stationary Power and who joined the company as an employee following the completion of the Stationary Power acquisition. The lease term is for three years and expires on November 15, 2010. The lease has a base annual rent of approximately $144, based on current market rates at the lease inception, payable in monthly installments. In addition to the base annual rate, we are obligated to pay the real estate and personal property taxes associated with the facility. Under the terms of the lease, we have the right to extend the lease for one additional three-year term, with the base annual rent, applicable to the extension, of approximately $147. During the first quarter of 2009, Mr. Maher resigned from his position.

The following table summarizes the unaudited pro forma financial information for the periods indicated as if the Stationary Power and RPS acquisitions had occurred at the beginning of the period being presented. Because Stationary Power and RPS were under common control as of the date of these acquisitions, the pro forma information contains the actual combined results of Stationary Power and RPS and us, with the results prior to the acquisition date including pro forma impact of: the amortization of the acquired intangible assets; the interest expense incurred relating to the convertible note payable issued in connection with the acquisition purchase price; interest expense that would not have been incurred for the mortgage payable that was not assumed by us in the Stationary Power acquisition; the elimination of the sales and purchases between Stationary Power and RPS and us; and rent expense that would have been incurred for the building that was not acquired by us in the Stationary Power acquisition, net of the reduction in depreciation expense for the building. These pro forma amounts do not purport to be indicative of the results that would have actually been obtained if the acquisitions had occurred as of the beginning of each of the periods presented or that may be obtained in the future.

(in thousands, except per share data)	Years Ended December 31, 2007	2006
Revenues	$144,356	$102,484
Net Income (Loss)	$ 5,393	$ (26,887)
Earnings (Loss) per share — Basic	$ 0.34	$ (1.74)
Earnings (Loss) per share — Diluted	$ 0.33	$ (1.74)

2006 Acquisitions

ABLE New Energy Co., Ltd.

On May 19, 2006, we acquired 100% of the equity securities of ABLE New Energy Co., Ltd. ("ABLE"), an established manufacturer of lithium batteries. ABLE is located in Shenzhen, China. With more than 50 products, including a wide range of lithium-thionyl chloride and lithium-manganese dioxide batteries and coin cells, this acquisition broadened our expanding portfolio of high-energy power sources, enabling us to further penetrate large and emerging markets such as remote meter reading, RFID (Radio Frequency Identification) and other markets that will benefit from these chemistries. We expect this acquisition will strengthen our global presence, facilitate our entry into the rapidly growing Chinese market, and improve our access to lower material and manufacturing costs.

The total consideration given for ABLE was a combination of cash and equity. The initial cash purchase price was $1,896 (net of $104 in cash acquired), with an additional $500 cash payment contingent on the achievement of certain performance milestones, payable in separate $250 increments, when cumulative ABLE revenues from the date of acquisition attain $5,000 and $10,000, respectively. In August 2007, the $5,000 cumulative revenue milestone was attained, and as such, we recorded the first $250 contingent cash payment, which resulted in an increase in goodwill of $250. In August 2008, the $10,000 cumulative revenue milestone was attained, and as such, we recorded the final $250 contingent cash payment, which resulted in an increase in goodwill of $250. The equity portion of the purchase price consisted of 96,247 shares of our common stock valued at $1,000, and 100,000 stock warrants valued at $526, for a total equity consideration of $1,526. The fair value of the stock warrants was estimated using the Black-Scholes option-pricing model with the following weighted-average assumptions as of May 19, 2006 (the date of acquisition):

Risk-free interest rate	4.31%
Volatility factor	61.25%
Dividends	0.00%
Weighted average expected life (years)	2.50

We incurred $59 in acquisition related costs, which is included in the total potential cost of the investment of $3,981.

The results of operations of ABLE and the estimated fair value of assets acquired and liabilities assumed are included in our consolidated financial statements beginning on the acquisition date. The estimated excess of the purchase price over the net tangible and intangible assets acquired of $2,268 (including $104 in cash) was recorded as goodwill in the amount of $1,817. The acquired goodwill has been assigned to the Non-Rechargeable Products segment and is not deductible for income tax purposes.

The following table represents the revised, final allocation of the purchase price to assets acquired and liabilities assumed at the acquisition date:

ASSETS	
Current assets:	
Cash and cash equivalents	$ 104
Trade accounts receivables, net	318
Inventories	737
Prepaid expenses and other current expenses	73
Total current assets	1,232
Property, plant and equipment, net	740
Goodwill	1,817
Intangible Assets:	
Trademarks	90
Patents and technology	390
Customer relationships	820
Distributor relationships	300
Non-compete agreements	40
Total assets acquired	5,429
LIABILITIES	
Current liabilities:	
Accounts payable	1,085
Other current liabilities	110
Total current liabilities	1,195
Long-term liabilities:	
Other long-term liabilities	65
Deferred tax liability	84
Total liabilities assumed	1,344
Total Purchase Price	$ 4,085

Trademarks have an indefinite life and will not be amortized. The intangible assets related to patents and technology, customer relationships, and distributor relationships are being amortized as the economic benefits of these intangible assets are being utilized over their weighted-average estimated useful life of eleven years. The non-compete agreements are being amortized on a straight-line basis over its estimated useful life of three years.

McDowell Research, Ltd.

On July 3, 2006, we finalized the acquisition of substantially all of the assets of McDowell Research, Ltd. ("McDowell"), a manufacturer of military communications accessories. McDowell was located originally in Waco, Texas, with the operations having been relocated to the Newark, New York facility during the second half of 2007.

Under the terms of the acquisition agreement, the purchase price of approximately $25,000 consisted of $5,000 in cash and a $20,000 non-transferable, subordinated convertible promissory note to be held by the sellers of McDowell. The purchase price was subject to a post-closing adjustment based on a final valuation of trade accounts receivable, inventory and trade accounts payable that were acquired or assumed on the date of the closing, using a base value of $3,000. The final net value of these assets, under our contractual obligation under the acquisition agreement, was $6,389, resulting in a revised purchase price of approximately $28,448. A cash payment of $1,500 was made to the sellers during the first quarter of 2007 and we had accrued $1,889 for the remaining final post-closing adjustment of $3,389.

The initial $5,000 cash portion was financed through a combination of cash on hand and borrowing through the revolver component of our credit facility with our primary lending banks, which was amended to accommodate the acquisition of McDowell. The $20,000 convertible note carried a five-year term, an annual interest rate of 4% and was convertible at $15 per share into 1.33 million shares of our common stock, with a forced conversion feature, at our option, at any time after the 30-day average closing price of our common stock exceeded $17.50 per share. We had evaluated the terms of the conversion feature under applicable accounting literature, including SFAS No. 133 and EITF 00-19, and concluded that this feature should not be separately accounted for as a derivative. The conversion price was subject to adjustment as defined in the subordinated convertible promissory note. Interest was payable quarterly in arrears, with all unpaid accrued interest and outstanding principal due in full on July 3, 2011. In April 2007, in connection with its dissolution, McDowell

distributed the convertible note to its members in proportion to their membership interests, resulting in six separate convertible notes aggregating $20,000.

On November 16, 2007, we finalized a settlement agreement with the sellers of McDowell Research, Ltd. relating to the initial purchase price of that company, which related to various operational issues that arose during the first several months following the July 2006 acquisition that significantly reduced our profit margins. The settlement agreement reduced the overall purchase price by approximately $7,900, by reducing the principal amount on the convertible notes initially issued in that transaction from $20,000 to $14,000, and eliminating a $1,889 liability related to a purchase price adjustment. In addition, the interest rate on the convertible notes was increased from 4% to 5% and we made prepayments totaling $3,500 on the convertible notes. Upon payment of the $3,500 in November 2007, we reported a one-time, non-operating gain of approximately $7,550 to account for the purchase price reduction, net of certain adjustments related to the change in the interest rate on the convertible notes. Based on the facts and circumstances surrounding the settlement agreement, there was not a clear and direct link to the purchase price; therefore, we recorded the settlement as an adjustment to income in accordance with SFAS No. 141. In January 2008, the remaining $10,500 principal balance on the convertible notes was converted in full into 700,000 shares of our common stock and the remaining $313 that pertained to the change in the interest rate on the notes was recorded in other income as a gain on debt conversion.

We have incurred $59 in acquisition related costs, which are included in the approximate total cost of the investment of $28,448.

The results of operations of McDowell and the estimated fair value of assets acquired and liabilities assumed are included in our consolidated financial statements beginning on the acquisition date. The estimated excess of the purchase price over the net tangible and intangible assets acquired of $15,373 was recorded as goodwill in the amount of $13,075. The acquired goodwill has been assigned to the Communications Systems and the Rechargeable Products segments and is fully deductible for income tax purposes.

The following table represents the final allocation of the purchase price to assets acquired and liabilities assumed at the acquisition date:

ASSETS	
Current assets:	
Trade accounts receivables, net	$ 3,532
Inventories	5,155
Prepaid inventory and other current expenses	10
Total current assets	8,697
Property, plant and equipment, net	397
Goodwill	13,075
Intangible Assets:	
Trademarks	3,000
Patents and technology	3,201
Customer relationships	1,990
Non-compete agreements	166
Total assets acquired	30,526
LIABILITIES	
Current liabilities:	
Current portion of long-term debt	46
Accounts payable	1,787
Other current liabilities	208
Total current liabilities	2,041
Long-term liabilities:	
Debt	37
Total liabilities assumed	2,078
Total Purchase Price	$ 28,448

Trademarks have an indefinite life and are not being amortized. The intangible assets related to patents and technology and customer relationships are being amortized as the economic benefits of these intangible assets are being utilized over their weighted-average estimated useful life of thirteen years. The non-compete agreements are being amortized on a straight-line basis over their estimated useful life of two years.

In connection with the McDowell acquisition, we entered into an operating lease agreement for real property in Waco, Texas with a partnership that is 50% owned by Thomas Hauke, who joined us as an executive officer following the completion of the McDowell acquisition. The lease term was for one year, with annual rent of $227, payable in monthly installments. This lease was extended and on November 1, 2007, we entered into a new operating lease agreement on a month-to-month basis for $10 per month, due to a reduction in total square feet being utilized. This lease ended during the second quarter of 2008. During the first quarter of 2007, Mr. Hauke resigned from his position.

The following table summarizes the unaudited pro forma financial information for the periods indicated as if the McDowell acquisition had occurred at the beginning of the period being presented. The pro forma information contains the actual combined results of McDowell and us, with the results prior to the acquisition date including pro forma impact of: the amortization of the acquired intangible assets; the interest expense incurred relating to the convertible note payable issued in connection with the acquisition purchase price; the elimination of the sales and purchases between McDowell and us; the impact on interest income and interest expense in connection with funding the cash portion of the acquisition purchase price; and the impact on income taxes. These pro forma amounts do not purport to be indicative of the results that would have actually been obtained if the acquisition had occurred as of the beginning of each of the periods presented or that may be obtained in the future.

(in thousands, except per share data)	Year Ended December 31, 2006
Revenues	$105,691
Net Loss	$ (26,359)
Loss per share — Basic	$ (1.77)
Loss per share — Diluted	$ (1.77)

Note 3 — 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, 2008	December 31, 2007
Raw materials	$ 29,352	$ 22,613
Work in process	9,087	7,493
Finished products	4,876	7,325
	43,315	37,431
Less: Reserve for obsolescence	2,850	2,333
	$ 40,465	$ 35,098

b. *Property, Plant and Equipment*

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

	December 31, 2008	December 31, 2007
Land	$ 123	$ 123
Buildings and Leasehold Improvements	5,274	5,104
Machinery and Equipment	42,172	43,252
Furniture and Fixtures	1,669	1,229
Computer Hardware and Software	2,808	2,359
Construction in Progress	2,023	1,090
	54,069	53,157
Less: Accumulated Depreciation	35,604	33,792
	$ 18,465	$ 19,365

Estimated costs to complete construction in progress as of December 31, 2008 and 2007 was approximately $857 and $876, respectively.

Depreciation expense was $3,752, $3,765, and $3,610 for the years ended December 31, 2008, 2007, and 2006, respectively.

Included in Buildings and Leasehold Improvements is a capital lease. The carrying value for this asset is as follows:

	December 31, 2008	December 31, 2007
Acquisition Value	$ 428	$ 428
Accumulated Amortization	52	19
Carrying Value	$ 376	$ 409

Included in Machinery and Equipment are various capital leases. The carrying value for these assets is as follows:

	December 31, 2008	December 31, 2007
Acquisition Value	$ 204	$ 172
Accumulated Amortization	47	10
Carrying Value	$ 157	$ 162

c. *Goodwill*

The following table summarizes the goodwill activity by segment for the years ended December 31, 2008 and 2007:

	Non-Rechargeable Products	Rechargeable Products	Communications Systems	Design and Installation Services	Total
Balance at December 31, 2006	$1,239	$2,421	$ 9,684	$ —	$13,344
Acquisition of RedBlack	—	—	—	905	905
Acquisition of SPS	—	—	—	3,825	3,825
Acquisition of RPS	—	1,672	—	—	1,672
Adjustments to purchase price allocation	328	194	776	—	1,298
Effect of foreign currency translations	136	—	—	—	136
Balance at December 31, 2007	$1,703	$4,287	$10,460	$4,730	$21,180
Adjustments to purchase price allocation	250	49	—	234	533
Acquistion of US Energy	—	—	—	1,111	1,111
Effect of foreign currency translations	119	—	—	—	119
Balance at December 31, 2008	$2,072	$4,336	$10,460	$6,075	$22,943

d. *Other Intangible Assets*

The composition of intangible assets was:

	December 31, 2008		
	Gross Assets	Accumulated Amortization	Net
Trademarks	$ 4,789	$ —	$ 4,789
Patents and technology	4,229	2,313	1,916
Customer relationships	8,906	2,934	5,972
Distributor relationships	352	180	172
Non-compete agreements	393	317	76
Total intangible assets	$ 18,669	$ 5,744	$ 12,925

	December 31, 2007		
	Gross Assets	Accumulated Amortization	Net
Trademarks	$ 4,399	$ —	$ 4,399
Patents and technology	4,069	1,662	2,407
Customer relationships	7,489	1,608	5,881
Distributor relationships	329	123	206
Non-compete agreements	390	170	220
Total intangible assets	$ 16,676	$ 3,563	$ 13,113

Amortization expense for intangible assets was $2,119, $2,317, and $1,199 for the years ended December 31, 2008, 2007, and 2006, respectively.

The change in the cost value of total intangible assets is a result of the 2008 acquisitions, changes in the final valuation of intangible assets in connection with the 2007 acquisitions and the effect of foreign currency translations.

Note 4 — Operating Leases

We lease various buildings, machinery, land, automobiles and office equipment. Rental expenses for all operating leases were approximately $1,001, $1,234 and $1,026 for the years ended December 31, 2008, 2007 and 2006, respectively. Future minimum lease payments under non-cancelable operating leases as of December 31, 2008 are as follows:

2009	2010	2011	2012	2013 and beyond
$ 869	$ 654	$ 301	$ 278	$ 125

Note 5 — Debt and Capital Leases

Credit Facilities

As of December 31, 2008, our primary credit facility consisted of both a term loan component and a revolver component, and the facility is collateralized by essentially all of our assets, including all of our subsidiaries. The lenders of the credit facility are JP Morgan Chase Bank and Manufacturers and Traders Trust Company, with JP Morgan Chase Bank acting as the administrative agent. As of December 31, 2008, the current revolver loan commitment was $22,500. Availability under the revolving credit component is subject to meeting certain financial covenants, including a debt to earnings ratio, a fixed charge coverage ratio, and a current assets to total liabilities ratio. In addition, we are required to meet certain non-financial covenants. The rate of interest, in general, was based upon either the current prime rate, or a LIBOR rate plus 250 basis points.

On June 30, 2004, we drew down the full $10,000 term loan. The term loan is being repaid in equal monthly installments of $167 over five years. On July 1, 2004, we entered into an interest rate swap arrangement in the notional amount of $10,000 to be effective on August 2, 2004, related to the $10,000 term loan, in order to take advantage of historically low interest rates. We received a fixed rate of interest in exchange for a variable rate. The swap rate received was 3.98% for five years. The total rate of interest paid by us is equal to the swap rate of 3.98% plus the applicable Eurodollar spread associated with the term loan. During the full year of 2006, the adjusted rate was 6.98%. During the full year of 2007, the adjusted rate ranged from 5.98% to 7.23%. During the full year of 2008, the adjusted rate ranged from 5.73% to 6.48%. Derivative instruments are accounted for in accordance with SFAS No. 133, “Accounting for Derivative Instruments and Hedging Activities”, which requires that all derivative instruments be recognized in the financial statements at fair value. The fair value of this arrangement at December 31, 2008 resulted in a liability of $12, all of which was reflected as a short-term liability.

There have been several amendments to the credit facility during the past few years, including amendments to authorize acquisitions and modify financial covenants. Effective February 14, 2007, we entered into Forbearance and Amendment Number Six to the Credit Agreement (“Forbearance and Amendment”) with the banks. The Forbearance and Amendment provided that the banks would forbear from exercising their rights under the credit facility arising from our failure to comply with certain financial covenants in the credit facility with respect to the fiscal quarter ended December 31, 2006. Specifically, we were not in compliance with the terms of the credit facility because we failed to maintain the required debt-to-earnings and EBIT-to-interest ratios provided for in the credit facility at that time. The banks agreed to forbear from exercising their respective rights and remedies under the credit facility until March 23, 2007 (“Forbearance Period”), unless we breached the Forbearance and Amendment or unless another event or condition occurred that constituted a default under the credit facility. Each bank agreed to continue to make revolving loans available to us during the Forbearance Period. Pursuant to the Forbearance and Amendment, the aggregate amount of the banks’ revolving loan commitment was reduced from $20,000 to $15,000. During the Forbearance Period, the applicable revolving interest rate and the applicable term interest rate, in each case as set forth in the credit agreement, both were increased by 25 basis points. In addition to a number of technical and conforming amendments, the Forbearance and Amendment revised the definition of “Change in Control” in the credit facility to provide that the acquisition of equity interests representing more than 30% of the aggregate ordinary voting power represented by the issued and outstanding equity interests of us shall constitute a “Change in Control” for purposes of the credit facility. Previously, the equity interests threshold had been set at 20%.

Effective March 23, 2007, we entered into Extension of Forbearance and Amendment Number Seven to Credit Agreement (“Extension and Amendment”) with the banks. The Extension and Amendment provided that the banks agreed to extend the Forbearance Period until May 18, 2007. The Extension and Amendment also acknowledged that we

continued not to be in compliance with the financial covenants identified above for the fiscal quarter ended December 31, 2006 and did not contemplate being in compliance for the fiscal quarter ending March 31, 2007.

Effective May 18, 2007, we entered into Extension of Forbearance and Amendment Number Eight to Credit Agreement ("Second Extension and Amendment") with the banks. The Second Extension and Amendment provided that the banks agreed to extend the Forbearance Period until August 15, 2007. The Second Extension and Amendment also acknowledged that we continued not to be in compliance with the financial covenants identified above for the fiscal quarter ended March 31, 2007 and did not contemplate being in compliance for the fiscal quarter ending June 30, 2007.

Effective August 15, 2007, we entered in Amendment Number Nine to Credit Agreement ("Amendment Nine") with the banks. Amendment Nine effectively ended the Forbearance Period and extended the term of the revolving credit component of the facility to January 31, 2009 and the term of the term loan component of the facility to July 1, 2009. Amendment Nine also added several definitions and modified or replaced certain covenants.

Effective April 23, 2008, we entered into Amendment Number Ten to Credit Agreement ("Amendment Ten") with the banks. Amendment Ten increased the amount of the revolving credit facility from $15,000 to $22,500, an increase of $7,500. Additionally, Amendment Ten amended the applicable revolver and term rates under the Credit Agreement from a variable pricing grid based on quarterly financial ratios to a set interest rate structure based on either the current prime rate, or a LIBOR rate plus 250 basis points. As of December 31, 2008, we were in compliance with all of the credit facility covenants, as amended.

As of December 31, 2008, we had $1,167 outstanding under the term loan component of our credit facility with our primary lending bank and $-0- was outstanding under the revolver component. At December 31, 2008, the interest rate on the revolver component was 3.25%. As of December 31, 2008, the revolver arrangement provided for up to $22,500 of borrowing capacity, including outstanding letters of credit. At December 31, 2008, we had no outstanding letters of credit related to this facility, as amended April 23, 2008, leaving $22,500 of additional borrowing capacity.

On January 27, 2009, we entered into an Amended and Restated Credit Agreement (the "Restated Credit Agreement") with JP Morgan Chase Bank, N.A. and Manufacturers and Traders Trust Company (together, the "Lenders"). The Restated Credit Agreement reflects the previous ten amendments to the original Credit Agreement dated June 30, 2004 between us and the Lenders and modifies certain of those provisions. The Restated Credit Agreement among other things (i) increases the current revolver loan commitment from $22,500 to $35,000, (ii) extends the maturity date of the revolving credit component from January 31, 2009 to June 30, 2010, (iii) modifies the interest rate, and (iv) modifies certain covenants. The rate of interest is based, in general, upon either a LIBOR rate plus a Eurodollar spread or an Alternate Base Rate plus an ABR spread, as that term is defined in the Restated Credit Agreement, within a predetermined grid, which is dependent upon whether Earnings Before Interest and Taxes for the most recently completed fiscal quarter is greater than or less than zero. Generally, borrowings under the Restated Credit Agreement will bear interest based primarily on the Prime Rate plus 50 to 200 basis points or LIBOR plus 300 to 500 basis points. Additionally, among other covenant modifications, the Restated Credit Agreement modifies the financial covenants by (i) revising the debt to earnings ratio and fixed charge coverage ratio and (ii) deleting the current assets to liabilities ratio.

Previously, our wholly-owned U.K. subsidiary, Ultralife Batteries (UK) Ltd., had a revolving credit facility with a commercial bank in the U.K. This credit facility provided our U.K. operation with additional financing flexibility for its working capital needs. Any borrowings against this credit facility were collateralized with that company's outstanding accounts receivable balances. During the second quarter of 2008, this credit facility was terminated. The Ultralife UK operations will be funded by operating cash flows and cash advances from Ultralife Corporation, if necessary

While we believe relations with our lenders are good and we have received waivers as necessary in the past, there can be no assurance that such waivers can always be obtained. In such case, we believe we have, in the aggregate, sufficient cash, cash generation capabilities from operations, working capital, and financing alternatives at our disposal, including but not limited to alternative borrowing arrangements (e.g. asset secured borrowings) and other available lenders, to fund operations in the normal course and repay the debt outstanding under our credit facility.

Continuing volatility in the debt capital markets may affect our ability to access those markets. Notwithstanding these adverse market conditions, we believe that current cash and cash equivalent balances and cash generated from operations, together with access to external sources of funds from the revolving credit facility, will be sufficient to meet our operating and capital needs in the foreseeable future.

Equipment and Vehicle Notes Payable

We have approximately twenty notes payable related to various equipment and vehicles. The notes payable provide for payments (including principal and interest) of $187 per year, collectively. The interest rates on the notes payable range from 0.00% to 12.02%. The term on the notes payable range from 24 to 72 months, with payments on the individual notes payable ending between April 2009 and December 2013. The respective equipment and vehicles collateralize the notes payable.

Capital Leases

We have fourteen capital leases. The first capital lease commitment is for a leasehold improvement that provides for payments (including principal and interest) of $91 per year from May 2007 through April 2012. The remaining thirteen capital lease commitments are for copiers that provide for payments (including principal and interest) of $61 per year, collectively, from July 2007 through December 2013. Remaining interest payable on all of the capital leases is approximately $68. At the end of the lease terms, we are required to purchase the assets under the capital lease commitments for one dollar each.

Payment Schedule

As of December 31, 2008, scheduled principal payments under the current amount outstanding of debt and capital leases are as follows:

	Credit Facility	Equipment and Vehicle Notes Payable	Capital Leases	Convertible Notes Payable	Total
2009	$ 1,167	$ 138	$ 120	$ —	$ 1,425
2010	—	150	117	4,000	4,267
2011	—	112	126	—	238
2012	—	71	66	—	137
2013 and thereafter	—	20	8	—	28
	1,167	491	437	4,000	6,095
Less: Current portion	1,167	138	120	—	1,425
Long-term	$ —	$ 353	$ 317	$ 4,000	$ 4,670

Letters of Credit

In connection with the $4,000 operating lease line that we initiated in March 2001, we maintained a letter of credit, which expired in July 2007. At December 31, 2008, we had no outstanding letters of credit.

Note 6 — Commitments and Contingencies

a. *Indemnity*

The Delaware General Corporation Law provides that directors or officers will be reimbursed for all expenses, to the fullest extent permitted by law arising out of their performance as agents or trustees of ours.

b. *Purchase Commitments*

As of December 31, 2008, we have made commitments to purchase approximately $629 of production machinery and equipment.

c. *Royalty Agreements*

Technology underlying certain of our products is based in part on non-exclusive transfer agreements. In 2003, we entered into an agreement with Saft, to license certain tooling for battery cases. The licensing fee associated with this

agreement is essentially one dollar per battery case. The total royalty expense reflected in 2008, 2007 and 2006 was $22, $13 and $39, respectively. This agreement expires in the year 2017.

d. *Government Grants/Loans*

We have been able to obtain certain grants/loans from government agencies to assist with various funding needs. In November 2001, we received approval for a $300 grant/loan from New York State. The grant/loan was to fund capital expansion plans that we expected would lead to job creation. In this case, we were to be reimbursed after the full completion of the particular project. This grant/loan also required us to meet and maintain certain levels of employment. During 2002, since we did not meet the initial employment threshold, it appeared unlikely at that time that we would be able to gain access to these funds. However, during 2006, our employment levels had increased to a level that exceeded the minimum threshold, and we received these funds in April 2007. This grant/loan required us to not only meet, but maintain our employment levels for a pre-determined time period. Our employment levels met the specified levels as of December 31, 2007 and 2008. As a result of meeting the employment levels as of December 31, 2008, we had satisfied all of the requirements for the grant/loan.

In October 2005, we received a contract valued at approximately $3,000 from the U.S. Defense Department to purchase equipment and enhance processes to reduce lead times and increase manufacturing efficiency to boost production surge capability of our BA-5390 battery during contingency operations. Approximately $1,750 of the total contract amount pertains to inventory that is included in our inventory balance at December 31, 2008, offset by deferred revenues which are included in other current liabilities. Approximately $775 of the total contract pertains to a reimbursement for expenses incurred to implement more effective processes and procedures, and the remaining approximately $525 was allocated to purchase equipment that is owned by the U.S. Defense Department. In 2006, we received $1,325 relating to this contract. In 2007, we received $1,257 relating to this contract. In 2008, we received $495 relating to this contract. The funding for this contract was completed during 2008.

In conjunction with the City of West Point, Mississippi, we applied for a Community Development Block Grant (“CDBG”) from the State of Mississippi for infrastructure improvements to our leased facility that is owned by the City of West Point, Mississippi. The CDBG was awarded and as of December 31, 2008, approximately $403 has been distributed under the grant. Under an agreement with the City of West Point, we have agreed to employ at least 30 full-time employees at the facility, of which 51% of the jobs must be filled or made available to low or moderate income families, within three years of completion of the CDBG improvement activities. In addition, we have agreed to invest at least $1,000 in equipment and working capital into the facility within the first three years of operation of the facility. In the event we fail to honor these commitments, we are obligated to reimburse all amounts received under the CDBG to the City of West Point, Mississippi.

In conjunction with Clay County, Mississippi, we applied for a Mississippi Rural Impact Fund Grant (“RIFG”) from the State of Mississippi for infrastructure improvements to our leased facility that is owned by the City of West Point, Mississippi. The RIFG was awarded and as of December 31, 2008, approximately $146 has been distributed under the grant. Under an agreement with Clay County, we have agreed to employ at least 30 full-time employees at the facility, of which 51% of the jobs must be filled or made available to low or moderate income families, within three years of completion of the RIFG improvement activities. In addition, we have agreed to invest at least $1,000 in equipment and working capital into the facility within the first three years of operation of the facility. In the event we fail to honor these commitments, we are obligated to reimburse all amounts received under the RIFG to Clay County, Mississippi.

e. *Employment Contracts*

We have employment contracts with certain of our key employees with automatic one-year renewals unless terminated by either party. These agreements provide for minimum salaries, as adjusted for annual increases, and may include incentive bonuses based upon attainment of specified management goals. These agreements also provide for severance payments in the event of specified termination of employment. In addition, these agreements provide for a lump sum payment in the event of termination of employment in association with a change in control.

In connection with the ABLE acquisition, we entered into employment contracts with certain key employees for a term of one to three years. These agreements provide for minimum salaries and may include incentive bonuses based upon attainment of specified management goals. In addition, these agreements provide for severance payments in the event of specified termination of employment.

In connection with the Stationary Power and RPS acquisitions, we entered into employment contracts with certain key employees for a term of three years. These agreements provide for minimum salaries and may include incentive bonuses based upon attainment of specified management goals. In addition, these agreements provide for severance payments in the event of specified termination of employment.

In connection with the USE acquisition, we entered into employment contracts with certain key employees for a term of three years. These agreements provide for minimum salaries and may include incentive bonuses based upon attainment of specified management goals. In addition, these agreements provide for severance payments in the event of specified termination of employment.

f. *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, 2008, 2007 and 2006 were as follows:

	2008	2007	2006
Balance at beginning of year	$ 501	$ 522	$464
Accruals for warranties issued	921	210	131
Settlements made	(412)	(231)	(73)
Balance at end of year	$1,010	$ 501	$522

g. *Post Audits of Government Contracts*

We have had certain “exigent”, non-bid contracts with the U.S. government, which have been subject to an audit and final price adjustment, which have resulted in decreased margins compared with the original terms of the contracts. As of December 31, 2008, there were no outstanding exigent contracts with the government. As part of its due diligence, the government has conducted post-audits of the completed exigent contracts to ensure that information used in supporting the pricing of exigent contracts did not differ materially from actual results. In September 2005, the Defense Contracting Audit Agency (“DCAA”) presented its findings related to the audits of three of the exigent contracts, suggesting a potential pricing adjustment of approximately $1,400 related to reductions in the cost of materials that occurred prior to the final negotiation of these contracts. We have reviewed these audit reports, have submitted our response to these audits and believe, taken as a whole, the proposed audit adjustments can be offset with the consideration of other compensating cost increases that occurred prior to the final negotiation of the contracts. While we believe that potential exposure exists relating to any final negotiation of these proposed adjustments, we cannot reasonably estimate what, if any, adjustment may result when finalized. In addition, in June 2007, we received a request from the Office of Inspector General of the Department of Defense (“DoD IG”) seeking certain information and documents relating to our business with the Department of Defense. We are cooperating with the DoD IG inquiry and are furnishing the requested information and documents. At this time we have no basis for assessing whether we might face any penalties or liabilities on account of the DoD IG inquiry. The aforementioned DCAA-related adjustments could reduce margins and, along with the aforementioned DOD IG inquiry, could have an adverse effect on our business, financial condition and results of operations.

h. *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 the financial position or results of operations of ours.

In October 2008, we filed a summons and complaint against one of our vendors seeking to recover at least $3,600 in damages, plus interest resulting from the vendor’s breach of contract and failure to perform by failing to timely deliver product and delivering product that failed to conform to the contractual requirements. The vendor filed an answer and counterclaim in November 2008 denying liability to us for breach of contract and asserting various counterclaims for non-payment, fraud, unjust enrichment, unfair and deceptive trade practices, breach of covenant of good faith and fair dealing, negligent misrepresentation, and tortuous interference with contract and prospective

economic advantage. In its answer and counterclaims, the vendor claims damages in excess of $3,500 plus interest and other incidental, consequential and punitive damages. We strongly dispute the vendor's allegations and we intend to vigorously pursue our claim and defend against the vendor's claims. We have $3,500 reflected in the accounts payable line on our Consolidated Balance Sheet relating to this matter. No additional accrual has been made or reflected in the consolidated financial statement as of December 31, 2008.

In January 2008, we filed a summons and complaint against one of our customers seeking to recover $162 in unpaid invoices, plus interest for product supplied to the customer under a Master Purchase Agreement ("MPA") between the parties. The customer filed an answer and counterclaim in March 2008 alleging that the product did not conform with a material requirement of the MPA. The customer claims restitution, cost of cover, and incidental and consequential damages in an approximate amount of $2,800. We strongly dispute the customer's allegations and we intend to vigorously pursue our claim and defend against the customer's claims. Accordingly, no accrual has been made or reflected in the consolidated financial statement as of December 31, 2008.

In conjunction with our purchase/lease of our Newark, New York facility in 1998, we entered into a payment-in-lieu of tax agreement, which provided us with real estate tax concessions upon meeting certain conditions. In connection with this agreement, a consulting firm performed a Phase I and II Environmental Site Assessment, which revealed the existence of contaminated soil and ground water around one of the buildings. We retained an engineering firm, which estimated that the cost of remediation should be in the range of $230. In February 1998, we entered into an agreement with a third party which provides that we and this third party will retain an environmental consulting firm to conduct a supplemental Phase II investigation to verify the existence of the contaminants and further delineate the nature of the environmental concern. The third party agreed to reimburse us for fifty percent (50%) of the cost of correcting the environmental concern on the Newark property. We have fully reserved for our portion of the estimated liability. Test sampling was completed in the spring of 2001, and the engineering report was submitted to the New York State Department of Environmental Conservation ("NYSDEC") for review. NYSDEC reviewed the report and, in January 2002, recommended additional testing. We responded by submitting a work plan to NYSDEC, which was approved in April 2002. We sought proposals from engineering firms to complete the remedial work contained in the work plan. A firm was selected to undertake the remediation and in December 2003 the remediation was completed, and was overseen by the NYSDEC. The report detailing the remediation project, which included the test results, was forwarded to NYSDEC and to the New York State Department of Health ("NYSDOH"). The NYSDEC, with input from the NYSDOH, requested that we perform additional sampling. A work plan for this portion of the project was written and delivered to the NYSDEC and approved. In November 2005, additional soil, sediment and surface water samples were taken from the area outlined in the work plan, as well as groundwater samples from the monitoring wells. We received the laboratory analysis and met with the NYSDEC in March 2006 to discuss the results. On June 30, 2006, the Final Investigation Report was delivered to the NYSDEC by our outside environmental consulting firm. In November 2006, the NYSDEC completed its review of the Final Investigation Report and requested additional groundwater, soil and sediment sampling. A work plan to address the additional investigation was submitted to the NYSDEC in January 2007 and was approved in April 2007. Additional investigation work was performed in May 2007. A preliminary report of results was prepared by our outside environmental consulting firm in August 2007 and a meeting with the NYSDEC and NYSDOH took place in September 2007. As a result of this meeting, NYSDEC and NYSDOH have requested additional investigation work. A work plan to address this additional investigation was submitted to and approved by the NYSDEC in November 2007. Additional investigation work was performed in December 2007. Our environmental consulting firm has prepared and submitted a Final Investigation Report to the NYSDEC for review. The results of the additional investigation requested by the NYSDEC may increase the estimated remediation costs modestly. Through December 31, 2008, total costs incurred have amounted to approximately $227, none of which has been capitalized. At December 31, 2008 and December 31, 2007, we have $52 and $85, respectively, reserved for this matter.

A retail end-user of a product manufactured by one of our customers (the "Customer") made a claim against the Customer wherein it asserted that the Customer's product, which is powered by one of our batteries, does not operate according to the Customer's product specification. No claim has been filed against us. However, in the interest of fostering good customer relations, in September 2002, we agreed to lend technical support to the Customer in defense of its claim. Additionally, we assured the Customer that we would honor our warranty by replacing any batteries that may be determined to be defective. Subsequently, we learned that the end-user and the Customer settled the matter. In February 2005, we entered into a settlement agreement with the Customer. Under the terms of the agreement, we have agreed to provide replacement batteries for product determined to be defective, to warrant each replacement battery under our standard warranty terms and conditions, and to provide the Customer product at a discounted price for shipments made prior to December 31, 2008 in recognition of the Customer's administrative costs in responding to the claim of the retail end-user. In consideration of the above, the Customer released us from any and all liability with respect to this matter. Consequently, we do not anticipate any further expenses with regard to this matter other than our obligation under the settlement agreement. As of December 31, 2008, we no longer have an accrual in the warranty reserve related to anticipated replacements under this agreement, due to lack of actual claims for replacements during the past few years. Further, we do

not expect the ongoing terms of the settlement agreement to have a material impact on our operations or financial condition.

i. *Workers' Compensation Self-Insured Trust*

From August 2002 through August 2006, we participated in a self-insured trust to manage our workers' compensation activity for our employees in New York State. All members of this trust have, by design, joint and several liability during the time they participate in the trust. In August 2006, we left the self-insured trust and have obtained alternative coverage for our workers' compensation program through a third-party insurer. In the third quarter of 2006, we confirmed that the trust was in an underfunded position (i.e. the assets of the trust were insufficient to cover the actuarially projected liabilities associated with the members in the trust). In the third quarter of 2006, we recorded a liability and an associated expense of $350 as an estimate of our potential future cost related to the trust's underfunded status based on our estimated level of participation. On April 28, 2008, we, along with all other members of the trust, were served by the State of New York Workers' Compensation Board ("Compensation Board") with a Summons with Notice that was filed in Albany County Supreme Court, wherein the Compensation Board put all members of the trust on notice that it would be seeking approximately $1,000 in previously billed and unpaid assessments and further assessments estimated to be not less than $25,000 arising from the accumulated estimated under-funding of the trust. The Summons with Notice did not contain a complaint or a specified demand. We timely filed a Notice of Appearance in response to the Summons with Notice. On June 16, 2008, we were served with a Verified Complaint. The Verified Complaint estimates that the trust was underfunded by $9,700 during the period of December 1, 1997 — November 30, 2003 and an additional $19,400 for the period December 1, 2003 — August 31, 2006. The Verified Complaint estimates our pro-rata share of the liability for the period of December 1, 1997 — November 30, 2003 is $195. The Verified Complaint did not contain a pro-rata share liability estimate for the period of December 1, 2003-August 31, 2006. Further, the Verified Complaint states that all estimates of the underfunded status of the trust and the pro-rata share liability for the period of December 1, 1997-November 30, 2003 are subject to adjustment based on a forensic audit of the trust that is currently being conducted on behalf of the Compensation Board by a third-party audit firm. We timely filed our Verified Answer with Affirmative Defenses on July 24, 2008. While the potential of joint and several liability exists, we have paid all assessments that have been levied against us to date during our participation in the trust. In addition, our liability is limited to the extent that the trust was underfunded for the years of our participation. As of December 31, 2008, we have determined that our $350 reserve for this potential liability continues to be reasonable. The final amount may be more or less, depending upon the ultimate settlement of claims that remain in the trust for the period of time we were a member. It may take several years before resolution of outstanding workers' compensation claims are finally settled. We will continue to review this liability periodically and make adjustments accordingly as new information is collected.

Note 7 — Shareholders' Equity

a. *Preferred Stock*

We have authorized 1,000,000 shares of preferred stock, with a par value of $0.10 per share. At December 31, 2008, no preferred shares were issued or outstanding.

b. *Common Stock*

We have authorized 40,000,000 shares of common stock, with a par value of $0.10 per share.

In November 2007, we issued 1,000,000 shares of common stock in a limited public offering at $13.50 per share. Total net proceeds from the offering were approximately $12,600, of which $6,000 was used for the Stationary Power cash payment, $3,500 was used as a prepayment on the subordinated convertible notes that were issued as partial consideration for the McDowell acquisition, $1,000 was used as a repayment of borrowings outstanding under our credit facility used to fund the RedBlack acquisition, and for general working capital purposes.

In August 2008, we issued 7,222 unrestricted shares of common stock to directors, valued at $78. In November 2008, we issued 5,515 unrestricted shares of common stock to directors, valued at $46.

c. *Treasury Stock*

At December 31, 2008 and 2007, we had 942,202 and 728,690 shares, respectively, of treasury stock outstanding, valued at $4,232 and $2,401, respectively. The increase in treasury shares related to shares that were repurchased under our share repurchase program and the exercising of stock options for certain key employees in December 2008, a portion

of which were withheld as treasury shares to cover for estimated individual income taxes, since the exercising of such options is a taxable event for the individuals.

In October 2008, the Board of Directors authorized a share repurchase program of up to $10,000 to be implemented over the course of a six-month period. Repurchases may be made from time to time at management's discretion, either in the open market or through privately negotiated transactions. The repurchases will be made in compliance with Securities and Exchange Commission guidelines and will be subject to market conditions, applicable legal requirements, and other factors. We have no obligation under the program to repurchase shares and the program may be suspended or discontinued at any time without prior notice. We intend to fund the purchase price for shares acquired primarily with current cash on hand and cash generated from operations, in addition to borrowing from our credit facility, if necessary. As of December 31, 2008, approximately $8,185 remained of the $10,000 approved repurchase amount. Under this repurchase program, we have made the following share repurchases:

	2008	
Year Ended December 31,	**Shares**	**Amount**
First Quarter	—	$ —
Second Quarter	—	—
Third Quarter	—	—
Fourth Quarter	212,108	1,815
Total	212,108	$ 1,815

Subsequent to December 31, 2008, we have repurchased approximately 383,000 shares of our common stock for a total cost of approximately $3,000.

d. *Stock Options*

We have various stock-based employee compensation plans, for which we follow the provisions of SFAS No. 123 (revised 2004), "Share-Based Payment" ("SFAS No. 123R"), which requires that compensation cost relating to share-based payment transactions be 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 options, restricted stock and other equity-based awards. In addition, our shareholders have approved the grant of options outside of these plans.

In December 2000, our shareholders approved a 2000 stock option plan for grants to key employees, directors and consultants. The shareholders approved reservation of 500,000 shares of common stock for grant under the plan. In December 2002, the shareholders approved an amendment to the plan increasing the number of shares of common stock reserved by 500,000, to a total of 1,000,000.

In June 2004, shareholders adopted the 2004 Long-Term Incentive Plan ("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. In June 2006, shareholders approved an amendment to the LTIP, increasing the number of shares of Common Stock by an additional 750,000, bringing the total shares authorized under the LTIP to 1,500,000. In June 2008, the shareholders approved another amendment to the LTIP, increasing the number of shares of common stock by an additional 500,000, bringing the total shares authorized under the LTIP to 2,000,000.

Options granted under the amended 2000 stock option plan and the LTIP 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, 2008, there were 1,553,007 stock options outstanding under the amended 2000 stock option plan and the LTIP.

On December 19, 2005, we granted the current CEO an option to purchase shares of common stock at $12.96 per share outside of any of our equity-based compensation plans, subject to shareholder approval. Shareholder approval was obtained on June 8, 2006. The option to purchase 48,000 shares of common stock is exercisable in annual increments of 16,000 shares over a three-year period commencing December 19, 2006. The option expires on June 8, 2013.

On March 7, 2008, we granted an executive officer an option to purchase shares of common stock at $12.74 per share outside of any of our equity-based compensation plans. The option to purchase 50,000 shares of common stock is exercisable in annual increments of 16,667 shares over a three-year period commencing March 7, 2009. The option expires on March 7, 2015.

In conjunction with SFAS No. 123R, we recorded compensation cost related to stock options of $1,700, $1,648 and $1,320 for the years ended December 31, 2008, 2007 and 2006, respectively. As of December 31, 2008, there was $1,053 of total unrecognized compensation costs related to outstanding stock options, which is expected to be recognized over a weighted average period of 1.12 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, 2008, 2007 and 2006:

	Years Ended December 31,		
	2008	2007	2006
Risk-free interest rate	2.33%	4.59%	4.84%
Volatility factor	59.46%	56.72%	60.04%
Dividends	0.00%	0.00%	0.00%
Weighted average expected life (years)	3.55	3.75	3.66
Forfeiture rate	7.00%	7.00%	7.00%

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 table summarizes data for the stock options issued by us:

	Year Ended December 31, 2008			
	Number of Shares	**Weighted Average Exercise Price Per Share**	**Weighted Average Remaining Contractual Term**	**Aggregate Intrinsic Value**
Shares under option at beginning of year	1,769,463	$11.51		
Options granted	197,000	13.19		
Options exercised	(230,840)	6.93		
Options cancelled	(84,616)	11.93		
Shares under option at end of year	1,651,007	$12.33	3.99 years	$3,061
Vested and expected to vest as end of year	1,565,204	$12.37	3.93 years	$2,895
Options exercisable at end of year	1,146,645	$12.64	3.41 years	$2,151

Year Ended December 31,	2007		2006	
	Number Of Shares	Weighted Average Exercise Price Per Share	Number Of Shares	Weighted Average Exercise Price Per Share
Shares under option at beginning of year	1,815,471	$11.03	1,430,271	$10.94
Options granted	263,000	10.49	566,300	10.54
Options exercised	(204,008)	6.43	(119,400)	6.09
Options cancelled	(105,000)	10.58	(61,700)	14.04
Shares under option at end of year	1,769,463	$11.51	1,815,471	$11.03
Options exercisable at end of year	1,095,735	$12.18	1,038,376	$11.96

The following table represents additional information about stock options outstanding at December 31, 2008:

	Options Outstanding			Options Exercisable	
Range of Exercise Prices	Number of Outstanding at December 31, 2008	Weighted-Average Remaining Contractual Life	Weighted-Average Exercise Price	Number Exercisable at December 31, 2008	Weighted-Average Exercise Price
$2.74-$9.70	257,609	3.37	$ 7.49	154,617	$ 6.03
$9.84-$9.95	208,850	4.31	$ 9.90	130,667	$ 9.91
$10.00-$11.42	212,847	4.67	$10.66	142,685	$10.51
$12.00-$12.92	148.500	4.78	$12.62	89,500	$12.57
$12.96-$12.96	201,000	4.06	$12.96	139,800	$12.96
$13.22-$13.43	167,000	6.09	$13.35	34,175	$13.43
$14.38-$14.75	10,500	2.32	$14.56	10,500	$14.56
$15.05-$15.05	295,201	2.88	$15.05	295,201	$15.05
$16.15-$20.89	125,000	2.92	$18.04	125,000	$18.04
$21.28-$21.28	24,500	1.52	$21.28	24,500	$21.28
$2.74-$21.28	1,651,007	3.99	$12.33	1,146,645	$12.64

The weighted average fair value of options granted during the years ended December 31, 2008, 2007 and 2006 was $5.71, $4.84 and $5.02. 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, 2008, 2007 and 2006 was $1,651, $1,526 and $604.

SFAS No. 123R requires cash flows from excess tax benefits to be 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 did not record any excess tax benefits in 2008, 2007 or 2006. Cash received from option exercises under our stock-based compensation plans for the years ended December 31, 2008, 2007 and 2006 was $1,517, $1,314 and $728, respectively.

e. *Warrants*

In July 2001, we issued warrants to purchase 109,000 shares of our common stock to H.C. Wainwright & Co., Inc. and other affiliated individuals that participated as investment bankers in the $6,800 private placement of 1,090,000 shares of common stock that was completed at that time. The exercise price of the warrants was $6.25 per share and the

warrants had a five-year term. During 2006, 80,545 warrants were exercised. On July 20, 2006, the remaining warrants to purchase 6,090 shares expired unexercised.

On May 19, 2006, in connection with our acquisition of ABLE, we granted warrants to acquire 100,000 shares of common stock. The exercise price of the warrants is $12.30 per share and the warrants have a five-year term. In January 2008, 82,000 warrants were exercised, for total proceeds received of $1,009. At December 31, 2008, there were 18,000 warrants outstanding.

f. *Restricted Stock Awards*

During 2008, there was no restricted stock grants awarded.

During 2007, we issued 28,948 restricted stock awards to directors. The restrictions lapse in equal installments of 7,237 shares on August 15, 2007, November 15, 2007, February 15, 2008 and May 15, 2008. As of December 31, 2008, all 28,948 of these shares had vested.

During 2007, we issued 22,600 time-vested restricted stock awards to our executive officers. The restrictions for 10,000 of these restricted stock awards will lapse annually in three equal installments, commencing on March 1, 2008. The restrictions for the remaining 12,600 restricted stock awards will lapse annually in three equal installments, commencing on March 1, 2009. As of December 31, 2008, 3,400 of these shares had vested.

During 2006, we issued 26,668 restricted stock awards to directors. The restrictions lapse in equal installments of 6,667 shares on August 15, 2006, November 15, 2006, February 15, 2007 and May 15, 2007. As of December 31, 2007, all 26,668 of these shares had vested.

During 2006, we issued 12,500 time-vested restricted stock awards to our executive officers. The restrictions will lapse over a three-year period in equal installments, commencing on the first anniversary of the grant date (December 21, 2006). As of December 31, 2008, 8,336 of these shares had vested.

During 2006, we issued 46,500 performance-vested restricted stock awards to our executive officers. The restrictions will lapse in three equal installments only if we meet or exceed the same predetermined target for our operating performance for 2007, 2008 and 2009 as used for determining cash awards pursuant to the non-equity incentive plan. As of December 31, 2008, none of these shares had vested. In March 2009, the restrictions on 15,500 shares were removed as a result of our 2008 performance.

Restricted stock grants awarded during the years ended December 31, 2008, 2007 and 2006 had the following values:

	Years Ended December 31,		
	2008	2007	2006
Number of shares awarded	—	51,548	85,668
Weighted average fair value per share	$ —	$ 11.85	$ 10.47
Aggregate total value	$ —	$610,854	$897,237

The activity of restricted stock grants of common stock for the years ended December 31, 2008, 2007 and 2006 is summarized as follows:

	Number of Shares	Weighted Average Grant Date Fair Value
Unvested as December 31, 2005	—	$ —
Granted	85,668	10.47
Vested	(13,334)	10.30
Forfeited	—	—
Unvested as December 31, 2006	72,334	$ 10.50
Granted	51,548	11.85
Vested	(31,979)	10.46
Forfeited	—	—
Unvested at December 31, 2007	91,903	$ 11.28
Granted	—	—
Vested	(22,039)	11.02
Forfeited	—	—
Unvested at December 31, 2008	69,864	$ 11.36

We recorded compensation cost related to restricted stock grants of $442, $501 and $160 for the years ended December 31, 2008, 2007 and 2006, respectively. As of December 31, 2008, we had $406 of total unrecognized compensation expense related to restricted stock grants, which is expected to be recognized over the remaining weighted average period of approximately 1.33 years. The total fair value of these grants that vested during the years ended December 31, 2008, 2007 and 2006 was $271, $334 and $141, respectively.

g. *Reserved Shares*

We have reserved 2,183,392, 1,934,598, and 2,191,554 shares of common stock under the various stock option plans, warrants and restricted stock awards as of December 31, 2008, 2007, and 2006 respectively.

h. Accumulated Other Comprehensive Income (Loss)

Other comprehensive income (loss) is reported on the Consolidated Statement of Changes in Shareholders' Equity and accumulated other comprehensive income (loss) is reported on the Consolidated Balance Sheet.

The components of accumulated other comprehensive income (loss) were as follows:

	December 31,		
	2008	2007	2006
Foreign Currency Exchange Translation Adjustments	$(1,918)	$66	$(371)
Unrealized Gains (Losses) on Derivative Instruments	(12)	3	50
Accumulated Other Comprehensive Income (Loss)	$(1,930)	$69	$(321)

Note 8 — Income Taxes

The provision for income taxes consists of:

	December 31, 2008	December 31, 2007	December 31, 2006
Current:			
Federal	$ 559	$ —	$ —
State	23	—	—
	582	—	—

	December 31, 2008	December 31, 2007	December 31, 2006
Deferred:			
Federal	3,453	—	23,611
State	—	—	124
Foreign	(156)	77	—
	3,297	77	23,735
Total	$ 3,879	$ 77	$ 23,735

We reflected a tax provision of $3,879 for the year ended December 31, 2008. The 2008 tax provision included an approximate $3,100 non-cash charge to record a deferred tax liability for liabilities generated from book/tax differences pertaining to goodwill and certain intangible assets that cannot be predicted to reverse during our loss carryforward periods. Substantially all of this adjustment related to book/tax differences that occurred during 2007 and were identified during the second quarter of 2008. In connection with this adjustment, we reviewed the illustrative list of qualitative considerations provided in SEC Staff Accounting Bulletin No. 99 and other qualitative factors in our determination that this adjustment was not material to the 2007 consolidated financial statements or this annual report on Form 10-K. The 2008 tax provision was also due to the application of the limitation of net operating losses in the computation of the alternative minimum tax in the U.S. Therefore, we are subject to income taxes for the year ended December 31, 2008. In addition, we recognized a deferred tax benefit for the losses recorded in China. In 2008, we continue to report a valuation allowance for our deferred tax assets that cannot be offset by reversing temporary differences in the U.S. and in the U.K. arising from the conclusion that we would not be able to utilize our U.S. and U.K. NOL's that had accumulated over time. The recognition of the valuation allowance on our deferred tax asset resulted from our evaluation of all available evidence, both positive and negative. The assessment of the realizability of the NOL's 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 ability to accurately forecast earnings for future periods and the increased uncertainty of the general business climate as of the end of 2008. We concluded that these factors represent sufficient negative evidence and have concluded that we should record a full valuation allowance under SFAS No. 109. We continually assess the carrying value of this asset based on relevant accounting standards.

We reflected a tax provision of $77 for the year ended December 31, 2007. This was due to the adjustment required for deferred taxes outside the United States. In 2007, we continued to report a full valuation allowance for our deferred tax assets in the U.S. and in the U.K., based on a consistent evaluation methodology that was used for 2006, and arising from our conclusion that it was more likely than not that we would not be able to utilize our U.S. and U.K. NOL's that had accumulated over time.

In December 2006, we placed a full valuation allowance on our deferred tax assets arising from our conclusion that it was more likely than not that we would not be able to utilize our U.S. and U.K. NOL's that had accumulated over time. As a result, we reflected a tax provision of $23,735 for the year ended December 31, 2006. The recognition of the full valuation allowance on our deferred tax asset resulted from our evaluation of all available evidence, both positive and negative, including: a) recent historical net income/losses, and income/losses on a cumulative three-year basis; and b) a financial evaluation that modeled the future utilization of anticipated deferred tax assets under three alternative scenarios.

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:

	December 31, 2008	December 31, 2007
Deferred tax liabilities:		
Property, plant and equipment	$ 1,549	$ 1,669
Intangible assets and other	2,215	1,793
Total deferred tax liabilities	3,764	3,462

	December 31, 2008	December 31, 2007
Deferred tax assets:		
Net operating loss carryforwards	18,510	27,081
Accrued expenses, reserves and other	5,064	2,242
Investments	342	1,142
Total deferred tax assets	23,916	30,465
Valuation allowance for deferred tax assets	(23,605)	(27,149)
Net deferred tax assets	311	3,316
Net deferred tax liability	$ (3,453)	$ (146)

The $3,453 net deferred tax liability for the year ended December 31, 2008 is comprised of a long-term deferred tax liability of $3,894, offset in part by a current deferred tax asset of $441. The $146 net deferred tax liability for the year ended December 31, 2007 is comprised of a long-term deferred tax liability of $455, offset in part by a current deferred tax asset of $309.

As of December 31, 2008, we have foreign and domestic NOL's totaling approximately $58,403 available to reduce future taxable income. Foreign loss carryforwards of approximately $8,963 can be carried forward indefinitely. The domestic NOL carryforward of $49,440 expires from 2018 through 2027. The domestic NOL includes approximately $2,687 of the NOL carryforward for which a benefit will be recorded in capital in excess of par value when realized.

We have determined that a change in ownership, as defined under Internal Revenue Code Section 382, occurred in 2005 and 2006. As such, the domestic NOL carryforward will be subject to an annual limitation estimated to be in the range of approximately $12,000 to $14,500. The unused portion of the annual limitation can be carried forward to subsequent periods. We believe such limitation will not impact our ability to realize the deferred tax asset. 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 2007 and 2006. However, this limitation does have an impact of $559 on income taxes for 2008. 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.

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

	December 31, 2008	December 31, 2007	December 31, 2006
United States	$ 21,361	$ 3,170	$ (2,931)
Foreign	(3,822)	2,490	(822)
Total	$ 17,542	$ 5,660	$ (3,753)

There are no undistributed earnings of our foreign subsidiaries, at December 31, 2008 or December 31, 2007.

We have been granted a tax holiday in China. As a result of new legislation effective for 2008, ABLE's corporate income rate increased to 9%, which is 50% of the new 2008 tax rate of 18%. For 2009, ABLE's corporate income rate will increase to 10%, which is 50% of the normal 20% tax rate for the jurisdiction in which we operate. Thereafter, our tax rate in China will be phased in until ultimately reaching a rate of 25% in 2012. During the years ended December 31, 2008, 2007 and 2006, we realized no tax benefits from the tax holiday due to taxable losses.

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 before income taxes as follows:

	December 31, 2008	December 31, 2007	December 31, 2006
Provision/(benefit) computed using the statutory rate	34.0%	34.0%	(34.0)%
Increase (reduction) in taxes resulting from:			
State tax, net of federal benefit	(0.1)	0.0	3.3
Foreign	6.5	(14.0)	7.4
Valuation allowance/deferred impact	(21.6)	(27.3)	649.6
Compensation	2.7	7.8	6.8
Other	0.6	0.9	(0.7)
Provision for income taxes	22.1%	1.4%	632.4%

In 2008, the provision for income taxes was lower than what would be expected if the statutory rate were applied to pretax income. This is due to the continuation of reflecting a full valuation allowance for our U.S and U.K. deferred tax assets. In 2007, the provision for income taxes was lower than what would be expected if the statutory rate were applied to pretax income. This is due to the continuation of reflecting a full valuation allowance for our U.S. and U.K. deferred tax assets. In addition, there was a lower than expected tax rate on our non-U.S. income due to the reduction of our valuation allowance on our foreign deferred tax assets. In 2006, the provision for income taxes is higher than would be expected if the statutory rate were applied to pretax income. This is due to the establishment of the valuation allowance for our U.S. net deferred tax asset. In addition, there were no benefits recognized for losses in the foreign jurisdictions.

Accounting for Uncertainty in Income Taxes (“FIN 48”)

On January 1, 2007, we adopted FASB Interpretation No. 48, “Accounting for Uncertainty in Income Taxes” (“FIN 48”). As a result of the implementation of FIN 48, there was no cumulative effect adjustment for unrecognized tax benefits, which would have been accounted for as an adjustment to the January 1, 2007 balance of retained earnings. We have recorded no liability for income taxes associated with unrecognized tax benefits at the date of adoption and have not recorded any liability associated with unrecognized tax benefits during 2007 and 2008, and as such, have not recorded any interest or penalty in regard to any unrecognized benefit. 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). It is possible that a liability associated with our unrecognized tax benefits will increase or decrease within the next twelve months.

We file a consolidated income tax return in the U.S. federal jurisdiction and consolidated and separate income tax returns in many state and foreign jurisdictions. Our U.S. tax matters for the years 2005 through 2008 remain subject to examination by the Internal Revenue Service (“IRS”). Our U.S. tax matters for the years 2004 through 2008 remain subject to examination by various state and local tax jurisdictions. Our tax matters for the years 2004 through 2008 remain subject to examination by the respective foreign tax jurisdiction authorities.

Note 9 — 401(k) 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 Board of Directors discretion, authorize an employer contribution based on a portion of the employees’ contributions. Effective February 2004, the Board of Directors approved our matching of employee contributions at the rate of 50% of the first 4% contributed by an employee, or a maximum of 2% of the employee’s income. In November 2005, the employer match was suspended in an effort to conserve cash. In October 2007, the employer match was reinstated at the rate of 50% of the first 4% contributed by an employee, or a maximum of 2% of the employee’s income. For 2008, 2007, and 2006 we contributed $363, $63, and $0, respectively.

Note 10 — Business Segment Information

We report our results in four operating segments: Non-Rechargeable Products, Rechargeable Products, Communications Systems and Design and Installation Services. The Non-Rechargeable Products segment includes: lithium 9-volt, cylindrical and various other non-rechargeable batteries. The Rechargeable Products segment includes:

rechargeable batteries, charging systems, uninterruptable power supplies and accessories, such as cables. In 2006, as a result of the acquisition of McDowell, we formed a new segment, Communications Accessories, which was renamed Communications Systems in 2007. The Communications Systems segment includes: power supplies, cable and connector assemblies, RF amplifiers, amplified speakers, equipment mounts, case equipment and integrated communication system kits. In the fourth quarter of 2007, as a result of the acquisitions of RedBlack and Stationary Power, we renamed our Technology Contracts segment to Design and Installation Services. The Design and Installation Services segment includes: standby power and communications and electronics systems design, installation and maintenance activities and revenues and related costs associated with various development contracts. We look at our segment performance at the gross margin level, and we do not allocate research and development or selling, general and administrative costs against the segments. All other items that do not specifically relate to these four segments and are not considered in the performance of the segments are considered to be Corporate charges.

2008

	Non-Rechargeable Products	Rechargeable Products	Communications Systems	Design and Installation Services	Corporate	Total
Revenues	$ 68,076	$ 34,691	$ 136,072	$ 15,861	$ —	$ 254,700
Segment contribution	10,791	6,818	36,805	2,529	(39,638)	17,305
Interest expense, net					(930)	(930)
Gain on debt conversion					313	313
Other income (expense), net					854	854
Income taxes-current					(582)	(582)
Income taxes-deferred					(3,297)	(3,297)
Net income						13,663
Total assets	42,820	26,291	33,539	20,996	5,941	129,587
Capital expenditures	2,716	66	38	97	870	3,787
Depreciation and amortization	2,697	90	68	89	3,026	5,970
Stock-based compensation	148	—	—	40	2,078	2,266

2007

	Non-Rechargeable Products	Rechargeable Products	Communications Systems	Design and Installation Services	Corporate	Total
Revenues	$ 80,262	$ 16,756	$ 37,140	$ 3,438	$ —	$ 137,596
Segment contribution	17,747	3,578	6,693	756	(28,973)	(199)
Interest expense, net					(2,184)	(2,184)
Gain on McDowell settlement					7,550	7,550
Other income (expense), net					493	493
Income taxes-current					—	—
Income taxes-deferred					(77)	(77)
Net income						5,583
Total assets	44,921	20,733	32,706	15,713	7,975	122,048
Capital expenditures	1,671	16	7	41	338	2,073
Depreciation and amortization	2,710	194	58	23	3,193	6,178
Stock-based compensation	191	2	1	3	1,952	2,149

2006

	Non-Rechargeable Products	Rechargeable Products	Communications Accessories	Technology Contracts	Corporate	Total
Revenues	$ 67,779	$ 17,745	$ 7,433	$ 589	$ —	$ 93,546
Segment contribution	11,858	3,822	1,771	(8)	(20,400)	(2,957)
Interest expense, net					(1,298)	(1,298)
Other income (expense), net					502	502
Income taxes-current					—	—
Income taxes-deferred					(23,735)	(23,735)
Net loss						(27,488)
Total assets	50,029	17,759	24,473	—	5,497	97,758
Capital expenditures	1,410	3	22	—	20	1,455
Depreciation and amortization	2,649	204	8	—	2,005	4,866
Stock-based compensation	182	1	1	10	1,286	1,480

Geographical Information

	Revenues			Long-Lived Assets		
	2008	2007	2006	2008	2007	2006
United States	$ 205,372	$ 79,263	$ 57,255	$ 15,521	$ 15,728	$ 15,557
United Kingdom	18,098	22,140	9,509	1,085	2,356	2,880
China	2,357	1,566	899	1,808	1,281	959
Hong Kong	844	1,672	2,309	—	—	—
India**	115	—	—	51	—	—
Europe, excluding United Kingdom	8,628	8,775	5,680	—	—	—
Japan	3,651	3,520	4,018	—	—	—
Singapore	1,193	244	169	—	—	—
Canada	9,699	12,903	10,033	—	—	—
Australia*	1,538	3,390	—	—	—	—
Other	3,205	4,123	3,674	—	—	—
Total	$ 254,700	$ 137,596	$ 93,546	$ 18,465	$ 19,365	$ 19,396

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* Geographical data for 2006 included in “Other” category.

** Geographical data for 2007 and 2006 included in “Other” category.

Long-lived assets represent the sum of the net book value of property, plant and equipment.

Note 11 — Fires at Manufacturing Facilities

In May 2004 and June 2004, we experienced two fires that damaged certain inventory and property at our facilities. The May 2004 fire occurred at our Newark facility and was caused by cells that shorted out when a forklift truck accidentally tipped the cells over in an oven in an enclosed area. Certain inventory, equipment and a small portion of the building where the fire was contained were damaged. The June 2004 fire happened at our U.K. location and mainly caused damage to various inventory and the Ultralife UK’s leased facility. The fire was contained mainly in a bunkered, non-manufacturing area designed to store various material, and there was additional smoke and water damage to the facility and its contents. It is unknown how the U.K. fire was started.

The total amount of the two losses and related expenses associated with company-owned assets was approximately $2,000. Of this total, approximately $450 was related to machinery and equipment, approximately $750 was related to inventory and approximately $800 was required to repair and clean up the facilities. The insurance claim related

to the fire at our Newark facility was finalized in March 2005. In the first quarter of 2006, we received notice of a final claim settlement for the U.K. facility. As a result of the final settlement for the fire at the U.K. facility, we reflected a gain of $148 in the first quarter of 2006 related to equipment and inventory damage. In April 2006 we received payment in final settlement. In June 2006 we recorded a gain of $43 for the favorable settlement of fire damage that pertained to our leased facilities in the U.K.

In November 2006, we experienced a fire that damaged certain inventory and property at our facility in China, which began in a battery storage area. Certain inventory and portions of buildings were damaged. We believe we maintain adequate insurance coverage for this operation. The total amount of the loss pertaining to assets and the related expenses was approximately $849. The majority of the insurance claim is related to the recovery of damaged inventory. In July 2007, we received approximately $637 as a partial payment on our insurance claim, which resulted in no gain or loss being recognized. In March 2008, we received a final settlement payment of $191, which offset the outstanding receivable of approximately $152 and resulted in a non-operating gain of approximately $39.

Note 12 — Selected Quarterly Information (unaudited)

The following table presents reported net revenues, gross margin (net sales less cost of products sold), net income (loss) and net income (loss) per share, basic and diluted, for each quarter during the past two years:

2008

	Quarter ended				
	March 29, 2008	June 28, 2008	Sept 27, 2008	Dec 31, 2008	Full Year
Revenues	$ 49,587	$ 87,898	$ 67,993	$ 49,222	$ 254,700
Gross margin	10,875	20,628	15,686	9,754	56,943
Net Income	2,434	6,395	4,657	177	13,663
Net Income per share-basic	0.14	0.37	0.27	0.01	0.79
Net Income per share- diluted	0.14	0.36	0.27	0.01	0.78

2007

	Quarter ended				
	March 31, 2007	June 30, 2007	Sept 29, 2007	Dec 31, 2007	Full Year
Revenues	$ 32,320	$ 35,196	$ 33,291	$ 36,789	$ 137,596
Gross margin	7,501	8,617	6,922	5,734	28,774
Net Income (Loss)	(36)	1,298	(128)	4,449	5,583
Net Income (Loss) per share-basic	(0.00)	0.09	(0.01)	0.28	0.36
Net Income (Loss) per share- diluted	(0.00)	0.08	(0.01)	0.27	0.36

Our monthly closing schedule is a weekly-based cycle as opposed to a calendar month-based cycle. While the actual dates for the quarter-ends will change slightly each year, we believe that there are not any material differences when making quarterly comparisons.

Quarterly and year-to-date computations of per share amounts are made independently; therefore, the sum of per share amounts for the quarters may not equal per share amounts for the year.

Earnings in the fourth quarter of 2007 were favorably impacted by the recognition of a one-time, non-operating gain of $7,550 pertaining to a purchase price settlement agreement that was finalized during the quarter with the sellers of McDowell, which we acquired in July 2006. In addition, gross margins in the fourth quarter were hampered by inventory adjustment of approximately $1,000, mainly related to physical inventory valuations at our McDowell operation.

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 vice president-finance and chief financial officer (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 vice president — finance and chief financial officer concluded that our disclosure controls and procedures were effective as of such date.

Changes In Internal Controls Over Financial Reporting — In 2008, we formed the India JV and completed the acquisition of USE. We have worked to integrate these companies into our business and are assimilating their operations, services, products and personnel with our management policies, procedures and strategies. As USE was a closely-held private company prior to our acquisition, the internal controls and processes inherent in this business have typically not been as sound as we require. We believe that we have taken the necessary steps to implement adequate controls and procedures to ensure that our financial statements are stated properly in compliance with U.S. GAAP.

There has been no other change in the internal control over financial reporting that occurred during the fiscal year covered by this annual report that has materially affected, or is reasonably likely to materially affect, the 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 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 the policies or procedures may deteriorate.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2008. 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, 2008, our internal control over financial reporting was effective based on those criteria.

BDO Seidman, LLP, an independent registered public accounting firm that audited the financial statements included in this report, has issued a report on the operating effectiveness of internal control over financial reporting. A copy of the report follows:

Report of Independent Registered Public Accounting Firm on Internal Controls Over Financial Reporting

Board of Directors and Shareholders
Ultralife Corporation
Newark, New York

We have audited Ultralife Corporation's internal control over financial reporting as of December 31, 2008, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). Ultralife Corporation's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying "Item 9A — Controls and Procedures." Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and

testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

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

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

In our opinion, Ultralife Corporation maintained, in all material respects, effective internal control over financial reporting as of December 31, 2008, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Ultralife Corporation as of December 31, 2008 and 2007, and the related consolidated statements of operations, changes in shareholders' equity and accumulated other comprehensive income (loss), and cash flows for each of the three years in the period ended December 31, 2008 and our report dated March 12, 2009 expressed an unqualified opinion thereon.

/s/ BDO Seidman, LLP

Troy, Michigan
March 12, 2009

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 2009 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 Report" in the Proxy Statement are incorporated herein by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED SHAREHOLDER 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	1,670,871	$ 12.27	514,385
Equity compensation plans not approved by security holders	50,000	12.74	—
Total	1,720,871	$ 12.29	514,385

See Note 7 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 2 — 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.

2. Financial Statement Schedules

   Schedule II — Valuation and Qualifying Accounts See Item 15 (c)

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

Exhibit Index	Description of Document	Incorporated By Reference from:
3.1	Restated Certificate of Incorporation	Filed herewith
3.2	By-laws	Exhibit 3.2 of Registration Statement, No 33-54470 (the “1992 Registration Statement”)
4.1	Specimen Stock Certificate	Filed herewith
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 Batteries, Inc. 2000 Stock Option Plan	Exhibit 99.1 of our Registration Statement on Form S-8 filed on May 15, 2001, File No. 333-60984 (the “2001 Registration Statement”)
10.5	Credit Agreement dated as of June 30, 2004 with JPMorgan Chase Bank as Administrative Agent	Exhibit 10.1 of the Form 10-Q for the fiscal quarter ended June 26, 2004 (the “June 2004 10-Q”)
10.6	General Security Agreement dated as of June 30, 2004 in favor of JPMorgan Chase Bank	Exhibit 10.2 of the June 2004 10-Q
10.7	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
10.8	Amendment Numbers One and Two to Credit Agreement dated as of September 24, 2004 with JPMorgan Chase Bank as Administrative Agent	Exhibit 10.1 of the Form 10-Q for the fiscal quarter ended April 2, 2005
10.9	Amendment Number Three to Credit Agreement dated as of August 5, 2005 with the Lenders Party Thereto and JPMorgan Chase Bank as Administrative Agent	Exhibit 10.1 of the Form 10-Q for the fiscal quarter ended July 2, 2005

Exhibit Index	Description of Document	Incorporated By Reference from:
10.10	Amendment Number Four to Credit Agreement dated as of November 1, 2005 with the Lenders Party Thereto and JPMorgan Chase Bank as Administrative Agent	Exhibit 10.1 of the Form 10-Q for the fiscal quarter ended October 1, 2005
10.11	Form of Resale Restriction Agreement between the Registrant and option holders dated as of December 28, 2005	Exhibit 10 of Form 8-K filed December 30, 2005
10.12	Agreement on Transfer of Shares in ABLE New Energy Co., Limited dated January 25, 2006	Exhibit 10.1 of the Form 10-Q for the fiscal quarter ended April 1, 2006 (the “March 2006 10-Q)
10.13	First Amendment to Agreement on Transfer of Shares in ABLE New Energy Co., Limited	Exhibit 10.2 of the March 2006 10-Q
10.14	Agreement on Transfer of Equity Shares in ABLE New Energy Co., Ltd dated January 25, 2006	Exhibit 10.3 of the March 2006 10-Q
10.15	Amendment Number Five to Credit Agreement dated as of June 29, 2006 with the Lenders Party Thereto and JPMorgan Chase Bank as Administrative Agent	Exhibit 10.1 of the Form 10-Q for the fiscal quarter ended July 1, 2006
10.16	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
10.17	Forbearance and Amendment Number Six to Credit Agreement dated as of February 14, 2007 with the Lenders Party Thereto and JPMorgan Chase Bank as Administrative Agent	Exhibit 10.1 of the Form 8-K filed February 21, 2007
10.18	Extension of Forbearance and Amendment Number Seven to the Credit Agreement dated as of March 23, 2007, with the Lenders Party Thereto and JPMorgan Chase Bank as Administrative Agent	Exhibit 10.1 of the Form 8-K filed March 27, 2007
10.19	Employment Agreement between the Registrant and John D. Kavazanjian	Exhibit 99.1 of our Report on Form 8-K filed April 27, 2007.
10.20	Form of Employment Agreement between the Registrant and each of William A. Schmitz, Robert W. Fishback and Peter F. Comerford	Exhibit 99.2 of our Report on Form 8-K filed April 27, 2007.
10.21	Extension of Forbearance and Amendment Number Eight to the Credit Agreement dated as of May 18, 2007, with the Lenders Party Thereto and JPMorgan Chase Bank as Administrative Agent	Exhibit 10.1 of the Form 8-K filed May 21, 2007
10.22	Amendment Number Nine to the Credit Agreement dated as of August 15, 2007, with the Lenders Party Thereto and JPMorgan Chase Bank as Administrative Agent	Exhibit 10.1 of the Form 8-K filed on August 16, 2007
10.23	Settlement Agreement dated October 3, 2007, among MRC Chargers, LTD., Frank Alexander, James Evans, Thomas Hauke, Earl Martin, Sr., Gloria Martin, Lillian Hauke, the Registrant, and McDowell Research Co., Inc.	Exhibit 10.1 of the Form 8-K filed on October 5, 2007

Exhibit Index	Description of Document	Incorporated By Reference from:
10.24	Form of Amended and Restated Subordinated Convertible Promissory Note for Frank Alexander and James Evans	Exhibit 10.2(a) of the Form 8-K filed on October 5, 2007
10.25	Form of Amended and Restated Subordinated Convertible Promissory Note for Thomas Hauke, Lillian Hauke, Earl Martin, Sr., and Gloria Martin	Exhibit 10.2(b) of the Form 8-K filed on October 5, 2007
10.26	Stock Purchase Agreement by and among Innovative Solutions Consulting, Inc., Michele A. Aloisio, Marc DeLaVergne, Thomas R. Knowlton, Kenneth J. Wood, W. Michael Cooper, and the Registrant, dated September 12, 2007	Exhibit 10.1 of the Form 10-Q for the fiscal quarter ended September 29, 2007, filed November 7, 2007
10.27	Placement Agency Agreement dated November 8, 2007 by and between the Registrant and Stephens, Inc.	Exhibit 10.1 of the Form 8-K filed November 9, 2007
10.28	Stock Purchase Agreement by and among Stationary Power Services, Inc., William Maher, and the Registrant dated October 30, 2007	Exhibit 10.48 of the Form 10-K for the year ended December 31, 2007, filed March 19, 2008
10.29	Subordinated Convertible Promissory Note with William Maher	Exhibit 10.49 of the Form 10-K for the year ended December 31, 2007, filed March 19, 2008
10.30	Stock Purchase Agreement by and among Reserve Power Systems, Inc., William Maher, Edward Bellamy, and the Registrant dated October 30, 2007	Exhibit 10.50 of the Form 10-K for the year ended December 31, 2007, filed March 19, 2008
10.31	Amendment Number Ten to the Credit Agreement dated as of April 23, 2008, with the Lenders Party Thereto and JPMorgan Chase Bank as Administrative Agent	Exhibit 10.1 of the Form 8-K filed on April 25, 2008
10.32	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
10.33	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
10.34	Asset Purchase Agreement by and among U.S. Energy Systems, Inc., Ken Cotton, Shawn O'Connell, Simon Baitler, and the Registrant and Stationary Power Services, Inc. dated October 31, 2008	Filed herewith
10.35	Asset Purchase Agreement by and among U.S. Power Services, Inc., Ken Cotton, Shawn O'Connell, Simon Baitler, and the Registrant and Stationary Power Services, Inc. dated October 31, 2008	Filed herewith
10.36	Amendment to Employment Agreement between the Registrant and John D. Kavazanjian	Filed herewith
10.37	Amendment to Employment Agreement between the Registrant and William A. Schmitz	Filed herewith

Exhibit Index	Description of Document	Incorporated By Reference from:
10.38	Amendment to Employment Agreement between the Registrant and Robert W. Fishback	Filed herewith
10.39	Amendment to Employment Agreement between the Registrant and Peter F. Comerford	Filed herewith
10.40	Amended and Restated Credit Agreement dated as of January 27, 2009, with the Lenders Party Hereto and JPMorgan Chase Bank, N.A. as Administrative Agent	Exhibit 99.1 of the Form 8-K filed on February 2, 2009
10.41	Amendment No.1 to the Stock Purchase Agreement by and among Innovative Solutions Consulting, Inc., Michele A. Aloisio, Marc DeLaVergne, Thomas R. Knowlton, Kenneth J. Wood, W. Michael Cooper, and the Registrant, dated September 12, 2007	Exhibit 99.1 of the Form 8-K filed on February 13, 2009
21	Subsidiaries	Filed herewith
23.1	Consent of BDO Seidman, LLP	Filed herewith
31.1	CEO 302 Certifications	Filed herewith
31.2	CFO 302 Certifications	Filed herewith
32.1	906 Certifications	Filed herewith

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

(c) Financial Statement Schedules.

The following financial statement schedules of the Registrant are filed herewith:

Schedule II — Valuation and Qualifying Accounts

		Additions			
	December 31, 2007	Charged to Expense	Charged to Other Accounts	Deductions	December 31, 2008
Allowance for doubtful accounts	$ 485	$675	$(11)	$ (63)	$1,086
Inventory reserves	2,333	619	(65)	(37)	2,850
Warranty reserves	501	921	—	(412)	1,010
Deferred tax valuation allowance	27,149	3,297	—	(6,841)	23,605

		Additions			
	December 31, 2006	Charged to Expense	Charged to Other Accounts	Deductions	December 31, 2007
Allowance for doubtful accounts	$ 447	$ 101	$ 6	$ 69	$ 485
Inventory reserves	1,206	1,323	—	196	2,333
Warranty reserves	522	210	—	231	501
Deferred tax valuation allowance	30,526	—	—	3,377	27,149

	December 31, 2005	Additions		Deductions	December 31, 2006
		Charged to Expense	Charged to Other Accounts		
Allowance for doubtful accounts	$ 458	$ 74	$ —	$ 85	$ 447
Inventory reserves	868	90	753	505	1,206
Warranty reserves	464	131	—	73	522
Deferred tax valuation allowance	5,721	24,805	—	—	30,526

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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 13, 2009

By: /s/ John D. Kavazanjian
John D. Kavazanjian
President and Chief Executive Officer
(Principal Executive Officer)

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 13, 2009	/s/ John D. Kavazanjian John D. Kavazanjian President, Chief Executive Officer and Director
Date: March 13, 2009	/s/ Robert W. Fishback Robert W. Fishback Vice President — Finance and Chief Financial Officer (Principal Financial Officer)
Date: March 13, 2009	/s/ Carole Lewis Anderson Carole Lewis Anderson (Director)
Date: March 13, 2009	/s/ Patricia C. Barron Patricia C. Barron (Director)
Date: March 13, 2009	/s/ Anthony J. Cavanna Anthony J. Cavanna (Director)
Date: March 13, 2009	/s/ Paula H. J. Cholmondeley Paula H. J. Cholmondeley (Director)
Date: March 13, 2009	/s/ Daniel W. Christman Daniel W. Christman (Director)
Date: March 13, 2009	/s/ Ranjit C. Singh Ranjit C. Singh (Director)
Date: March 13, 2009	/s/ Bradford T. Whitmore Bradford T. Whitmore (Director)

RESTATED CERTIFICATE OF INCORPORATION

OF

ULTRALIFE CORPORATION

FIRST: **Name**. The name of the Corporation shall be Ultralife Corporation.

SECOND: **Purposes and Powers.** The purpose for which this Corporation is organized is as follows:

To engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

THIRD: **Capitalization.** The total number of shares of stock that the Corporation shall have authority to issue is 40 million shares of Common Stock, par value $.10 per share (the "Common Stock") and 1 million shares of Preferred Stock, par value $.10 per share (the "Preferred Stock").

The voting powers, designations, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions of the classes of stock of the Corporation are as follows:

I. **Shares of Common Stock**. All shares of Common Stock will be identical and will entitle the holders thereof to the same rights and privileges.

A. **Voting Rights**. Except as otherwise required by law, the holders of Common Stock shall be entitled to one vote per share on each matter on which the stockholders of the Corporation shall be entitled to vote.

B. **Dividends**. The Board of Directors of the Corporation may cause dividends or other distributions to be paid to the holders of shares of Common Stock out of funds legally available for the payment of dividends by declaring an amount per share as a dividend or other distribution.

C. **Liquidation Rights**. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation and after payment shall have been made to the holders of shares of Preferred Stock of the full amount to which they may be entitled, the holders of shares of Common Stock shall be entitled, to the exclusion of the holders of shares of Preferred Stock, to share ratably, share for share, in all remaining assets of the Corporation available for distribution to its stockholders. Neither a consolidation or merger of the Corporation with or into any other corporation, nor a merger of any other corporation into the Corporation, nor a reorganization of the Corporation, nor the purchase or redemption of all or part of the outstanding shares of any class or classes of the Corporation, nor a sale or transfer of all or any part of its assets shall be considered a

liquidation, dissolution or winding up or the Corporation within the meaning of this paragraph.

II. **Preferred Stock**. The Board of Directors of the Corporation shall have the full authority permitted by law to fix by resolution full, limited or no voting powers and such designations, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions of any series of Preferred Stock that may be desired.

FOURTH: **Elections by Ballot**. Elections of directors need not be by written ballot.

FIFTH: **Amendment of Bylaws**. The Board of Directors shall have the power, in addition to the stockholders, to make, alter or repeal the bylaws of the Corporation.

SIXTH: **Limit on Liability and Indemnification**.

A. **Liability**. To the full extent of the General Corporation Law of the State of Delaware, as it exists on the date hereof or may hereafter be amended, permits the limitation or elimination of the liability of directors or officers, a director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages.

B. **Indemnification**. To the full extent of the General Corporation Law of the State of Delaware, as it exists on the date hereof or may hereafter be amended, and any other applicable law, the Corporation shall indemnify a director of the Corporation who is or was a party to any proceeding by reason of the fact that such person is or was such a director or is or was serving at the request of the Corporation as a director of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise. The Board of Directors is hereby empowered to contract in advance to indemnify any director.

SEVENTH: **Amendment to Certificate of Incorporation**. The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders are granted subject to this reservation.

EIGHTH: **Registered Office**. The registered office of the Corporation is to be located at Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, in the County of New Castle, in the State of Delaware. The name of the registered agent at that address is The Corporation Trust Company.

Exhibit 4.1

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

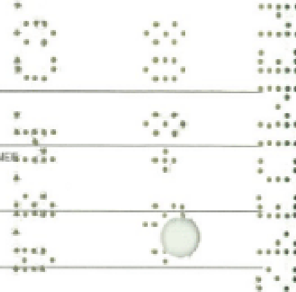
TEN COM – as tenants in common
TEN ENT – as tenants by the entireties
JT TEN – as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT–.................. Custodian ....
(Cust) (Minor)
under Uniform Gifts to Minors
Act ....
(State)

Additional abbreviations may also be used though not in the above list.

For value received, ______________________ hereby sell, assign and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE



____

PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS INCLUDING POSTAL ZIP CODE OF ASSIGNEE

____

____

______________________ Shares
of the common stock represented by the within Certificate, and do hereby irrevocably

constitute and appoint ______________________

______________________ Attorney
to transfer the said stock on the books of the within-named Corporation with full power of substitution in the premises.

Dated, ______________________

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE, IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT, OR ANY CHANGE WHATEVER.

SIGNATURE(S) GUARANTEED:

THE SIGNATURE(S) MUST BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (BANKS, STOCKBROKERS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM), PURSUANT TO S.E.C. RULE 17Ad-15.

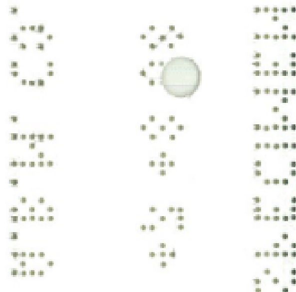


Exhibit 10.34

ASSET PURCHASE AGREEMENT

by and among

U.S. ENERGY SYSTEMS, INC.

KEN COTTON, SHAWN O'CONNELL,
SIMON BAITLER

And

ULTRALIFE CORPORATION

and

STATIONARY POWER SERVICES, INC.

October 31, 2008

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ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made as of October 31, 2008 by and among U.S. Energy Systems, Inc., a California corporation ("***Seller***"), Ken Cotton, Shawn O'Connell, Simon Baitler (together the "***Selling Shareholders***") and Ultralife Corporation, a Delaware corporation ("***Buyer***") and Stationary Power Services, Inc., a Florida corporation ("***Acquisition Sub***"). Buyer, Seller, the Selling Shareholders and Acquisition Sub are referred to collectively herein as the "***Parties***."

Recitals

Seller is engaged in the business of designing, developing, installing and maintaining backup power systems for sale to a variety of commercial customers (the **"*Business*"**).

The parties desire that Seller sell, transfer, assign and license certain assets to Acquisition Sub, and that Acquisition Sub purchase, license and assume from Seller certain specified liabilities related to the Business, all as more specifically provided herein.

NOW, THEREFORE, in consideration of the premises and the mutual representations, warranties, covenants and undertakings contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I. DEFINITIONS

Section 1.1 Certain Definitions.

The following terms will, when used in this Agreement, have the following respective meanings:

"***Acquisition Sub***" has the meaning set forth in the Preface above.

"***Affiliate***" means, with respect to a Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person at any time during the period for which the determination of affiliation is being made. For purposes of this definition, the term "***control***" means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of management policies of such Person, whether through the ownership of voting securities or by contract.

"***Agreement***" means this Asset Purchase Agreement, as the same may be amended or supplemented from time to time in accordance with the terms hereof, together with the exhibits and schedules thereto.

"***Sales Allocation Agreement***" means that certain allocation agreement by and between Buyer, Acquisition Sub, the Selling Shareholders, and William Maher, substantially in the forms attached hereto as Exhibit C.

"***Ancillary Agreements***" means, collectively, the Employment Agreements attached to this Agreement as Exhibits A-1 and A-2, the Confidentiality Agreements attached to this Agreement as

Exhibit B-1, Exhibit B-2, Exhibit B-3 and Exhibit B-4, and the Sales Allocation Agreement attached to this Agreement as Exhibit C each as more fully described herein.

"***Applicable Employees***" has the meaning set forth in Section 5.15(a)(ii) of this Agreement.

"***Approvals***" means, collectively, the consents, approvals, waivers, authorizations, novations, notices and filings required in connection with the consummation of the Agreement and the Transaction (or any portion of the Transaction), which are listed on Schedule 1.1.

"***Assumed Contracts***" has the meaning set forth in Section 2.1(e) of this Agreement.

"***Assumed Liabilities***" has the meaning set forth in Section 2.5 of this Agreement.

"***Assumed License Agreements***" has the meaning set forth in Section 2.1(e)(i)of this Agreement.

"***Benefit Plans***" has the meaning set forth in Section 3.21(a) of this Agreement.

"***Books and Records***" means books, ledgers, files (including personnel files), reports, operating records, accounting records, price lists, correspondence and other forms of information, in any form or medium, relating in any manner to the Business, operations or financial or statistical history of Seller.

"***Business***" has the meaning set forth in the Recitals above.

"***Buyer***" has the meaning set forth in the Preface above.

"***Buyer Indemnified Parties***" has the meaning set forth in Section 7.1 of this Agreement.

"***Buyer Losses***" has the meaning set forth in Section 7.1 of this Agreement.

"***Claim***" means any pending or threatened contest, claim, charge, demand, assessment, action, cause of action, complaint, litigation, proceeding, hearing or notice involving Seller.

"***Claim Notice***" has the meaning set forth in Section 7.4(b) of this Agreement.

"***Closing***" means the closing and consummation of the Transaction.

"***Closing Date***" has the meaning set forth in Section 2.7 of this Agreement.

"***Closing Documents***" means: (a) with respect to Seller, all agreements, documents and instruments, including the Ancillary Agreements, required to be delivered by Seller at Closing, as set forth in Section 6.2; and (b) with respect to Buyer and Acquisition Sub, all agreements, documents and instruments, including the Ancillary Agreements, required to be delivered by Buyer and Acquisition Sub at Closing, as set forth in Section 6.3.

"***Code***" means the Internal Revenue Code of 1986, as amended and all Treasury Regulations promulgated thereunder.

"***Confidentiality Agreement***" means that certain Confidentiality, Non-Compete and Non-Disparagement Agreement by and between Buyer and the Selling Shareholders.

"***Confidential Information***" means any information concerning the businesses and affairs of the Seller or Buyer, as the context requires, or any of their Affiliates, that is not already generally available to the public.

"***Copyrights***" has the meaning set forth in Section 2.1(c)(iv) of this Agreement.

"***Cost of Goods Sold***" means direct materials (cost of materials), labor (direct labor, contract labor and benefits) and overhead (depreciation, indirect labor, tools, training, travel and entertainment, consumables and samples) and all other costs related to the support of manufacturing as defined by GAAP.

"***Disclosing Party***" has the meaning set forth in Section 5.6(a) of this Agreement.

"***Employment Agreements***" means those certain employment agreements by and between Buyer or Acquisition Sub and Messrs. Cotton and O'Connell substantially in the forms attached hereto as Exhibits A-1 and A-2, respectively.

"***Employment Laws***" has the meaning set forth in Section 3.20 of this Agreement.

"***Encumbrances***" means liens, charges, encumbrances, security interests, options or any other restrictions or third party rights.

"***Environmental Law***" means, collectively, all federal, state and local statutes, common law, authorizations, regulations, ordinances, codes, published guidelines and policies, directives, judgments, injunctions, decrees and orders (including all amendments thereto) pertaining to environmental matters including but not limited to: (A) the protection, investigation or restoration of the environment, health, safety or natural resources, (B) the handling, use, presence, disposal, release or threatened release of any Hazardous Substance, or (C) air, indoor air, noise, employee exposure, water vapor, surface water, groundwater, soil, natural resources, chemical use, health, safety and sanitation, or threat of injury to persons or property relating to any Hazardous Substance. Without limiting the generality of the foregoing, "***Environmental Laws***" include the Comprehensive Environmental Response, Compensation and Liability Act, the Medical Waste Tracking Act, the Resource Conservation and Recovery Act, the Clean Air Act, the Federal Water Pollution Control Act, the Safe Water Drinking Act, the Toxic Substance Control Act and the Occupational Safety and Health Act.

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended.

"***Excluded Assets***" has the meaning set forth in Section 2.2 of this Agreement.

"***Excluded Liabilities***" has the meaning set forth in Section 2.3 of this Agreement.

"***Financial Statements***" has the meaning set forth in Section 3.6 of this Agreement.

“***GAAP***” means generally accepted accounting principles, methods and practices set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants, and statements and pronouncements of the Financial Accounting Standards Board, the Securities and Exchange Commission or of such other Person as may be approved by a significant segment of the U.S. accounting profession, in each case as of the date or period at issue, and as applied in the U.S. to U.S. companies.

“***Governmental Authorizations***” means all licenses, permits, certificates and other authorizations and approvals of any Governmental Entity required under any Law to carry on the Business as currently conducted or anticipated in the Ordinary Course.

“***Governmental Entity***” means any U.S. or non-U.S. local, state, federal or other government, including each of their respective branches, departments, agencies, courts, instrumentalities or other subdivisions.

“***Gross Margin***” means Sales minus Cost of Goods Sold.

“***Hazardous Substance***” means and includes: (a) any hazardous materials, hazardous wastes, hazardous substances and toxic substances as those or similar items are defined under any Environmental Law; (b) any asbestos or any material that contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite and/or actinolite, whether friable or non-friable; (c) any polychlorinated biphenyls or polychlorinated biphenyl-containing materials or fluids; (d) radon; (e) any other hazardous, explosive, flammable, infectious, carcinogenic, mutagenic, radioactive, toxic or noxious substance, material, pollutant, contaminant or solid, liquid or gaseous waste; (f) any petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, natural gas or synthetic gas; and (h) any substance that, whether by its nature or its use, is or becomes subject to regulation under any Environmental Laws or with respect to which any Environmental Laws or Governmental Entity requires or will require environmental investigation, monitoring or remediation.

“***Hired Employees***” is defined in Section 5.15(a)(ii) of this Agreement.

“***Holdback Amount***” has the meaning set forth in Section 2.6(a)(ii) of this Agreement.

“***Improvements***” has the meaning set forth in Section 3.22(d) of this Agreement.

“***Indemnified Parties***” means, as appropriate in the context, either the Buyer Indemnified Parties or the Seller Indemnified Parties, which terms are defined in Article VII.

“***Intellectual Property***” means all of the following: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, trade dress, logos, slogans, trade names, corporate names, Internet domain names and rights in telephone numbers, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all mask works and all applications,

registrations, and renewals in connection therewith, (e) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (f) all computer software (including source code, executable code, data, databases, and related documentation), (g) all advertising and promotional materials, (h) all other proprietary rights, and (i) all copies and tangible embodiments thereof (in whatever form or medium).

"***Inventory***" has the meaning set forth in Section 2.1(j) of this Agreement.

"***Knowledge***" means (i) with respect to any natural person, the actual knowledge, of such person, or (ii) with respect to any corporation or entity, the actual knowledge of such party's officers provided that such persons shall have made due and diligent inquiry of those employees and directors of such party whom such officers reasonably believe would have actual knowledge of the matters represented.

"***Law***" means any applicable law (including common law), statute, ordinance, rule, regulation, code, order, judgment, injunction, decree or judicial or administrative doctrine that is promulgated or issued by any Governmental Entity.

"***Leases***" means all leases, subleases, licenses, concessions and other agreements (written or oral), including all amendments, extensions, renewals, guaranties, and other agreements with respect thereto, pursuant to which Seller holds any Leased Real Property, including the right to all security deposits and other amounts and instruments deposited by or on behalf of Seller thereunder.

"***Lease Consents***" has the set forth in Section 6.2(m)(iii).

"***Leased Real Property***" has the meaning set forth in Section 2.1(a) of this Agreement.

"***Leased Real Property Permits***" has the meaning set forth in Section 3.22(f) of this Agreement.

"***Liability***" means any direct or indirect indebtedness, liability, Claim, damage, deficiency, obligation or responsibility, fixed or unfixed, choate or inchoate, liquidated or unliquidated, secured or unsecured, accrued, absolute, contingent or otherwise.

"***Losses***" means Liabilities, losses, interest, penalties and reasonable costs and expenses associated therewith (including attorneys' fees, litigation costs, fines, penalties and expenses of investigation), whether asserted by a party to this Agreement or by a third party, but in no event includes incidental or consequential damages**.**

"***Material Adverse Effect***" means a material adverse effect on the condition (financial or otherwise), results of operations or assets of the Business or on Seller's ability to perform its obligations under this Agreement.

"***Measuring Period***" means the first four full calendar years following the Closing Date.

"***Most Recent Financial Statements***" has the meaning set forth in Section 3.6 of this Agreement.

"***Most Recent Fiscal Quarter***" has the meaning set forth in Section 3.6 of this Agreement.

"***Most Recent Fiscal Year End***" has the meaning set forth in Section 3.6 of this Agreement.

"***No Shop Period***" has the meaning set forth in Section 5.5(a) of this Agreement.

"***Ordinary Course***" means the ordinary course of business of the Business, consistent with past practices.

"***Patents***" has the meaning set forth in Section 2.1(c)(ii) of this Agreement.

"***Parties***" has the meaning set forth in the Preface of this Agreement.

"***Permitted Encumbrances***" means Encumbrances that secure or constitute an Assumed Liability that is recorded on the Books and Records of Seller as of the Closing Date.

"***Person***" means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization.

"***Personal Property***" has the meaning set forth in Section 2.1(b) of this Agreement.

"***Plans***" has the meaning set forth in Section 3.21(a) of this Agreement.

"***Products***" has the meaning set forth in Section 2.1(d) of this Agreement.

"***Purchase Price***" has the meaning set forth in Section 2.6(a) of this Agreement.

"***Purchase Transaction***" has the meaning set forth in Section 5.5(b) of this Agreement.

"***Receiving Party***" has the meaning set forth in Section 5.6(a) of this Agreement.

"***Sales***" means revenues booked in accordance with GAAP that are allocated to Seller pursuant to the Sales Allocation Agreement, excluding all intra-company sales. Any such sale where the Gross Margin of such sale is lower than the average Gross Margin achieved by Buyer in the previous calendar year (unless otherwise agreed to in writing by Buyer in its sole discretion) shall be excluded for purposes of this definition.

"***Sales Payments***" has the meaning set forth in Section 2.6(a)(iii) of this Agreement.

"***Seller***" has the meaning set forth in the Preface above.

"***Seller Indemnified Parties***" has the meaning set forth in Section 7.2 of this Agreement.

"***Seller Losses***" has the meaning set forth in Section 7.2 of this Agreement.

"***Selling Shareholders***" means Ken Cotton, Shawn O'Connell and Simon Baitler.

"***Shares***" means the shares of Ultralife Common Stock issuable upon the satisfaction of the conditions set forth in Section 2.6(a)(iii) of this Agreement.

"***Software***" has the meaning set forth in Section 2.1(c)(i) of this Agreement.

"***Subsidiary***" means any Person, fifty percent (50%) or more of the outstanding equity interests of which are owned, directly or indirectly, by Seller.

"***Taxes***" means all taxes levied or imposed by any Governmental Entity, including income, gross receipts, windfall profits, value added, severance, production, sales, use, license, excise, franchise, employment, environmental, real property, personal property, transfer, alternative minimum, estimated, withholding or other taxes, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties, whether or not disputed or contested.

"***Tax Returns***" means all U.S. and non-U.S. reports and returns required to be filed with respect to Taxes, including all attachments thereto.

"***Technical Documentation***" means all technical and descriptive materials in all media (other than Inventory) relating to the acquisition, design, development, use or maintenance of Intellectual Property or the Products, including any compilers, tools, libraries, debuggers and higher level or proprietary language**.**

"***Trademarks***" has the meaning set forth in Section 2.1(c)(iii) of this Agreement.

"***Transaction***" means, collectively, the purchase and sale of the Transferred Assets, the assumption of the Assumed Liabilities and the execution and delivery of the Closing Documents and the other transactions, all as herein provided.

"***Transferred Assets***" has the meaning set forth in Section 2.1 of this Agreement.

"***Transferred Intellectual Property***" has the meaning set forth in Section 2.1(c) of this Agreement.

"***Ultralife Common Stock***" has the meaning set forth in Section 2.6(a) of this Agreement.

"***Volume Weighted Average Price***" means the volume weighted average price of the Ultralife Common Stock as determined in accordance with the trading rules of the NASDAQ stock market.

Section 1.2 Interpretation.

In this Agreement, unless the express context otherwise requires:

(a) the words "*herein*," "*hereof*" and "*hereunder*" and words of similar import refer to this Agreement as a whole and not to any particular provision of this Agreement;

(b) references to “*Article*” or “*Section*” are to the respective Articles and Sections of this Agreement, and references to “*Exhibit*” or “*Schedule*” are to the respective Exhibits and Schedules annexed hereto;

(c) references to a “*party*” mean a party to this Agreement and include references to such party’s permitted successors and permitted assigns;

(d) references to a “*third party*” mean a Person not a party to this Agreement;

(e) the terms “*dollars*” and “*$*”means U.S. dollars;

(f) terms defined in the singular have a comparable meaning when used in the plural, and vice versa;

(g) the masculine pronoun includes the feminine and the neuter, and vice versa, as appropriate in the context; and

(h) wherever the word “*include*,” “*includes*” or “*including*” is used in this Agreement, it will be deemed to be followed by the words “without limitation.”

Section 1.3 Accounting Conventions.

Except as expressly provided otherwise herein, all references in this Agreement to financial terms will be deemed to refer to such terms as they are defined under GAAP, consistently applied.

ARTICLE II. PURCHASE AND SALE

Section 2.1 Purchase and Sale of Assets.

On the terms and subject to the conditions set forth herein, at Closing, Seller will sell, convey, transfer, assign and deliver to Acquisition Sub, and Acquisition Sub will purchase from Seller, all of Seller’s right, title and interest in and to the following listed assets owned by Seller at the Closing Date that are used or useful in, related to or arise out of the Business (except for those assets that are defined in Section 2.2 as Excluded Assets), in each case free and clear of all liens, mortgages, pledges, encumbrances, security interests, charges or other interests of other persons of every kind whatsoever, except for Permitted Encumbrances (collectively, the “***Transferred Assets***”):

(a) all leasehold or subleasehold estates and other rights to use or occupy any land, buildings, structures, improvements, fixtures, or other interest in real property held by Seller, which are listed on Schedule 2.1(a) (collectively, the “***Leased Real Property***”);

(b) all tangible personal property, whether owned or leased by Seller, including all machinery, equipment, inventories of raw materials and supplies, manufactured and purchased parts, goods in process and finished goods, furniture, automobiles, trucks, tractors, trailers and tools, including all such personal property listed on Schedule 2.1(b) (collectively, the “***Personal Property***”);

(c) all Intellectual Property, including the following (collectively, the “***Transferred Intellectual Property***”):

(i) all source code, object code, design documentation and procedures for product generation and testing of all computer software and firmware, including that listed on Schedule 2.1(c)(i) and including the software rules and algorithms, flowcharts, trade secrets, know-how, inventions, patents, copyrights, designs, technical processes, works of authorship, Technical Documentation, included in or relating to the same (collectively, the "***Software***");

(ii) all patents and patent applications, including those listed on Schedule 2.1(c)(ii), together with any division, continuation, continuation-in-part, continuing prosecution application, continued examination application, reinstatement, reexamination, revival, reissue, extension or substitution of any thereof, and corresponding foreign applications, patents and rights thereto, including, in all cases, the right to sue for past infringement thereof and to collect any past or future royalties or other payments in connection therewith (collectively, the "***Patents***");

(iii) all trademarks, service marks, trade names, all corporate names, trade dress, product names, slogans and logos, including those listed on Schedule 2.1(c)(iii), and corresponding foreign applications, marks and rights thereto, including, in all cases, the right to sue for past infringement thereof and to collect any past or future royalties or other payments in connection therewith (collectively, the "***Trademarks***");

(iv) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith, including those listed on Schedule 2.1(c)(iv), and foreign applications, in all cases, the right to sue for past infringement thereof and to collect any past or future royalties or other payments in connection therewith (collectively, the "***Copyrights***");

(v) all product development projects**,** including those listed on Schedule 2.1(d)***;***

(vi) all Internet, intranet and World Wide Web content, sites, domain names and pages, and all HTML and other code related thereto, including those listed on Schedule 2.1(c)(vi); and

(vii) all schematics, engineering drawings, specifications, and process work instructions in whatever form or medium;

(d) all products related to or incorporating any Intellectual Property, including those listed on Schedule 2.1(d) and including all proposed or unimplemented developments or improvements thereof, and the trade secrets, know-how, inventions, patents, copyrights, mask works, designs, technical processes, works of authorship and technical data included in or relating to the same (the "***Products***");

(e) only the following contracts and instruments, and no others (collectively, the "***Assumed Contracts***"):

(i) those contracts, agreements, licenses (whether granted to or by a third party) and other commitments and arrangements, oral or written, with any Person respecting the ownership, license, acquisition, design, development, distribution, marketing, use, maintenance, support or enhancement of Intellectual Property, related technical or user documentation or

databases (including royalty, work-for-hire, consulting, employment, dealership and franchise agreements), which are listed on Schedule 2.1(e)(i) (the "***Assumed License Agreements***");

(ii) those other agreements, contracts, subcontracts, leases and subleases of personal property, arrangements, commitments, licenses and sublicenses, with customers, suppliers, resellers, distributors, current, former or prospective employees, employee groups, or other third parties, which are listed on Schedule 2.1(e)(ii); and

(iii) all leases involving the Leased Real Property.

(f) all customer lists and documentation (in all media) relating to the customers of the Business;

(g) all Books and Records, and all proprietary and non-proprietary business information, including marketing and sales materials and publications, product literature, reports, plans, records, pricing, cost and other manuals, advertising materials, catalogues, sales, service and maintenance records, and training materials;

(h) to the extent their transfer is permitted by Law, all Governmental Authorizations which are required for the conduct of the Business, and all applications therefore, including those that are listed on Schedule 2.1(h);

(i) all Claims that Seller may have against any Person relating to or arising out of any Transferred Asset or any Hired Employee, including rights to recover damages, settlements, rights to refunds, Claims for compensation or benefits, insurance Claims, Claims of infringement or past infringement of any Intellectual Property rights and royalty or similar rights related to any Transferred Intellectual Property, including those that are listed on Schedule 2.1(i);

(j) all inventories of (i) Products; (ii) computer program code (in all media) and materials; (iii) program documentation, including user materials; and (iv) raw materials and supplies, manufactured and purchased parts, goods in process, and finished goods, including the inventory listed on Schedule 2.1(j) (the "***Inventory***");

(k) any other assets, if any, that are listed on Schedule 2.1(k); and

(l) all goodwill of the Business associated with the foregoing enumerated Transferred Assets.

Section 2.2 Excluded Assets.

Notwithstanding anything herein to the contrary, from and after Closing, Seller will retain all of its existing right, title and interest in and to, and there will be excluded from the sale, conveyance, assignment or transfer to Acquisition Sub hereunder, and the Transferred Assets will not include, the following, in each case as the same exists on the Closing Date (collectively, the "***Excluded Assets***"):

(a) all other agreements, instruments, contracts, subcontracts, leases, subleases, arrangements, commitments, licenses, sublicenses and independent contractor agreements, written or oral, and sales representative agreements, written or oral, that are not Assumed Contracts;

(b) all employee compensation, retirement, pension, severance, deferred compensation, health, welfare or benefit plans and programs, and all funds and accounts held thereunder;

(c) all real property, including land, buildings, structures and improvements thereon, appurtenances thereto and interests therein and all fixtures constituting part of such real property;

(d) all accounts receivable;

(e) all notes receivable;

(f) all cash and cash equivalents, including amounts on deposit in bank accounts;

(g) all refunds, overpayments and prepayments of Taxes and duties paid by Seller,

(h) all Tax Returns of Seller and all other Books and Records related thereto;

(i) all corporate minute books and stock records of Seller and all other Books and Records related thereto;

(j) the capital stock of any Subsidiary; and

(k) the assets, if any, that are set forth on Schedule 2.2(k).

Section 2.3 Inability to Assign Assumed Contracts.

(a) Notwithstanding anything to the contrary contained in this Agreement or in any Closing Document, to the extent that the assignment or attempted assignment to Acquisition Sub of any Assumed Contract, or any Claim, right or benefit arising thereunder or resulting therefrom, is prohibited by any Law, or would require any consent, approval, waiver, authorization or novation by a Governmental Entity or a Person and such consent, approval, waiver, authorization or novation has not been obtained prior to Closing and in a form acceptable to Acquisition Sub in its sole discretion, or with respect to which any attempted assignment would be ineffective or would materially adversely affect the rights of Seller or Acquisition Sub thereunder, then this Agreement will not constitute an assignment or attempted assignment thereof, and the same will not be assigned at Closing.

(b) Both prior and subsequent to Closing, the parties will use commercially reasonable efforts, and cooperate with each other, to obtain promptly all consents, approvals, waivers, authorizations or novations, including all Approvals, for the Assumed Contracts on terms acceptable to Buyer and Acquisition Sub in its sole discretion. Buyer will bear and pay the cost of all filing, recordation and similar fees and Taxes incurred after the date hereof and payable to Governmental Entities in connection with assignment of the Assumed Contracts, and any additional fees or charges (howsoever denominated) required by any Persons in connection with the assignment of any Assumed Contract or obtaining any consent, approval, waiver, authorization or novation, including any Approval.

(c) If any consent, approval, waiver, authorization or novation, including any Approval, which is necessary for the effective assignment to Acquisition Sub of any Assumed Contract, cannot be obtained or made and, as a result, the full benefits of use of such Assumed Contract cannot be provided to Acquisition Sub following Closing otherwise in accordance with this Agreement, then Seller will use its best efforts to provide Acquisition Sub the economic and operational equivalent, to the extent permitted, of obtaining or making such consent, approval, waiver, authorization or novation, as the case may be, and to permit Acquisition Sub to perform Seller's obligations and enforce Seller's rights under such Assumed Contract as if such Assumed Contracts had been sold, conveyed, assigned and delivered to Acquisition Sub, including (i) enforcing, at the Acquisition Sub's request and at the expense of Seller, any rights of Seller arising with respect thereto, including the right to terminate in accordance with the terms thereof upon the advice of Acquisition Sub and (ii) permitting Acquisition Sub to enforce any rights arising with respect thereto. Seller will pay to Acquisition Sub, when received, all income, proceeds and other monies received by Seller from third parties to the extent related to Acquisition Sub's intended rights under any Assumed Contract, as contemplated by this Section 2.3(c). Once any such consent, approval, waiver, authorization or novation is obtained or made in a form acceptable to Acquisition Sub in its sole discretion, Seller will assign such Assumed Contract to Acquisition Sub at no additional cost. Any expenses incurred by Seller, and any reasonable expenses incurred by Acquisition Sub, in connection with the arrangements contemplated by this Section 2.3(c) will be borne by Seller.

(d) The provisions of this Section 2.3 shall not affect the right of the Buyer and Acquisition Sub to elect not to consummate the Transaction contemplated by this Agreement if the conditions to its obligations hereunder contained in Article VI hereof have not been otherwise fulfilled.

Section 2.4 Excluded Liabilities.

It is expressly understood and agreed that neither Buyer or Acquisition Sub, nor any of their Affiliates, will assume, nor will any of them be liable for, any Liability of Seller, any Seller Subsidiary, any Affiliate of Seller or the Business, of any kind or nature, at any time existing or asserted, howsoever arising, whether or not accrued, whether fixed, contingent or otherwise, whether known or unknown, liquidated or unliquidated, due or to become due, and whether or not recorded on the Books and Records of Seller, unless such Liability is expressly within the definition of Assumed Liabilities under Section 2.5. All Liabilities that are not expressly within the definition of Assumed Liabilities under Section 2.5 are referred to collectively as the "***Excluded Liabilities***."

Section 2.5 Assumption of Certain Liabilities.

On the terms and subject to the conditions set forth herein, Acquisition Sub will assume and agree to satisfy and discharge or perform when due only the following Liabilities of Seller (and no others) (collectively, the "***Assumed Liabilities***"):

(a) all Liabilities identified on Schedule 2.5(a), including the amount of such Liabilities as of the Closing Date, arising under the Assumed Contracts, excluding all warranty obligations of Seller under the Assumed Contracts for products sold and services rendered prior to

Closing, to the extent that the rights and benefits of Seller thereunder are effectively transferred or assigned to Acquisition Sub, or novated for the benefit of Acquisition Sub; and

(b) all Liabilities identified on Schedule 2.5(b), including the amount of such Liabilities as of the Closing Date, that arise out of or relate to the Transferred Assets (other that the Assumed Contracts) to the extent such Liabilities are attributable to occurrences and circumstances arising after Closing.

Section 2.6 Purchase Price.

(a) On the terms and subject to the conditions set forth in this Agreement, and subject to adjustment, if any, as provided by Section 2.6(a)(ii) and Section 2.6(a)(iii), the purchase price for the Transferred Assets that Buyer will pay to Seller is One Million Five Thousand Dollars ($1,005,000) and up to Two Hundred Thousand (200,000) shares of the Buyer's common stock, par value $0.10 per share (the "***Ultralife Common Stock***") (collectively, the "***Purchase Price***"). The Purchase Price will be paid as follows:

(i) On the terms and subject to the conditions set forth in this Agreement, at Closing, Buyer shall pay to Seller by wire transfer of immediately-available funds in the amount of Nine Hundred Thirty Thousand and no/100 Dollars ($930,000);

(ii) On the terms and subject to the conditions set forth in this Agreement, including Buyer's right of offset pursuant to Section 7.3, and following the notice and cure provisions of Section 7.4, six months from the Closing Date Buyer shall pay to Seller by wire transfer of immediately-available funds in the amount of Seventy Five Thousand and no/100 Dollars ($75,000) (the "***Holdback Amount***") provided that the Seller and no Selling Shareholder has violated any material terms of this Agreement or the Closing Documents and further provided that Buyer does not have the right to offset the Holdback Amount pursuant to Section 7.3. Subject to the notice and cure provisions of Section 7.4, if the Buyer in good faith determines that Seller or any of the Selling Shareholders has violated any material terms of this Agreement, then Buyer will not have to pay Seller the Holdback Amount portion of the Purchase Price

(iii) On the terms and subject to the conditions set forth in this Agreement, including Buyer's right of offset pursuant to Section 7.3, following the Closing, Buyer shall pay to Seller shares of Ultralife Common Stock if certain Sales targets are met during the Measuring Period, as measured at the end of each fiscal year (the "***Sales Payments***"), as follows:

(A) Thirty Thousand (30,000) shares of Ultralife Common Stock shall be granted to Seller on the first occasion that annual Sales during the Measuring Period exceed Ten Million Dollars ($10,000,000);

(B) Forty Thousand (40,000) shares of Ultralife Common Stock shall be granted to Seller on the first occasion that annual Sales during the Measuring Period exceed Fifteen Million Dollars ($15,000,000);

(C) Sixty Thousand (60,000) shares of Ultralife Common Stock shall be granted to Seller on the first occasion that annual Sales during the Measuring Period exceed Twenty Million Dollars ($20,000,000);

(D) Seventy Thousand (70,000) shares of Ultralife Common Stock shall be granted to Seller on the first occasion that annual Sales during the Measuring Period exceed Twenty Five Million Dollars ($25,000,000);

(E) Notwithstanding anything herein to the contrary, in no event shall the aggregate number of shares of Ultralife Common Stock issuable as Sales Payments exceed 200,000 shares. In the event of a stock split or other re-capitalization event affecting the Ultralife Common Stock, the number of shares issuable as Sales Payments shall be adjusted accordingly;

(F) Any Sales Payments due from Buyer to Seller hereunder shall be made within ten days of the completion of the audit by Buyer's independent public accounting firm of the Books and Records of Buyer and its Affiliates during the Measuring Period; and

(G) Subject to the notice and cure provisions of Section 7.4, Buyer will only make the Sales Payments described above to Seller if the Buyer in good faith determines that neither Seller nor any Selling Shareholder has violated any material terms of this Agreement or the Closing Documents. Subject to the notice and cure provisions of Section 7.4, if the Buyer in good faith determines that Seller or any of the Selling Shareholders has violated any material terms of this Agreement, then Buyer will not have to pay Seller any Sales Payments after the occurrence of such violation.

(iv) The following illustrates how the Sales Payments are earned. If Sales were $12,000,000 during the fiscal year ending on December 31, 2009, $21,000,000 during the fiscal year ending on December 31, 2010, $22,000,000 during the fiscal year ending on December 31, 2011 and $26,000,000 during the fiscal year ending on December 31, 2012, then (1) Buyer would issue to Seller 30,000 shares of Ultralife Common Stock for the fiscal year ending on December 31, 2009 because the $10,000,000 threshold was satisfied during the Measuring Period; (2) Buyer would issue to Seller 100,000 shares of Ultralife Common Stock for the fiscal year ending December 31, 2010 because both the $15,000,000 and the $20,000,000 Sales thresholds would have been satisfied during the Measuring Period; (3) Buyer would not issue any shares of Ultralife Common Stock to Seller for the fiscal year ending on December 31, 2011 because the $10,000,000, $15,000,000 and $20,000,000 Sales thresholds would have been already satisfied during the Measuring Period and the additional Sales threshold (i.e., $25,000,000) would not have been satisfied during such period; and (4) Buyer would issue to Seller 70,000 shares of Ultralife Common Stock for the fiscal year ending on December 31, 2012 because the $25,000,000 threshold was satisfied during the Measuring Period.

Section 2.7 Closing.

The closing of the transactions contemplated by this Agreement (the "***Closing***") shall take place at the offices of Harter Secrest & Emery LLP, in Rochester, New York, commencing at 10:00 a.m. local time on the second business day following the satisfaction or waiver of all conditions to the obligations of the Parties to consummate the transactions contemplated hereby (other than conditions with respect to actions the respective Parties will take at the Closing itself) or such other

date as Buyer and Seller may mutually determine (the "***Closing Date***"); provided, however, that the Closing Date shall be no later than November 12, 2008. The required deliveries at Closing are set forth in Article VII.

ARTICLE III. REPRESENTATIONS AND WARRANTIES OF SELLER AND SELLING SHAREHOLDERS

As of the date hereof and (except as otherwise expressly stated herein) as of the Closing, each of the Seller, and each Selling Shareholder, jointly and severally, represents and warrants to Buyer as follows:

Section 3.1 Organization and Power; Stock Ownership.

Seller is a corporation duly organized, validly existing and in good standing under the Laws of the State of California. Seller has all requisite corporate power and authority to enter into this Agreement and the Closing Documents, to perform its obligations hereunder and thereunder, to own, lease, operate and transfer the Transferred Assets, and to carry on the Business as now being conducted. Seller is duly qualified to do business and is in good standing as a foreign corporation in each jurisdiction where its ownership or operation of the Transferred Assets or its conduct of the Business requires such qualification, which jurisdictions are listed on Schedule 3.1.

Section 3.2 Authorization.

Seller has full corporate power and authority to execute and deliver this Agreement and each Closing Document and to perform its obligations hereunder and thereunder. The execution, delivery and performance by Seller of this Agreement and each Closing Document have been duly and validly authorized by Seller's board of directors and, if necessary, its shareholders.

Section 3.3 Approvals.

Except for the Approvals, no consent, approval, waiver, authorization or novation is required to be obtained by Seller and no notice or filing is required to be given by Seller to, or made by Seller with, any Governmental Entity or other Person in connection with the execution, delivery and performance by Seller of this Agreement and each Closing Document and the consummation of the Transaction.

Section 3.4 Non-Contravention.

The execution, delivery and performance by Seller of this Agreement and each Closing Document, and the consummation of the Transaction, do not and will not: (a) violate any provision of the certificate of incorporation, bylaws, or other organizational documents of Seller; (b) assuming the receipt or making of all Approvals, conflict with, or result in the breach of, or constitute a default under, or result in the termination, cancellation or acceleration (whether after the filing of notice or the lapse of time or both) of any right or obligation of Seller under, or a loss of any benefit to which Seller is entitled under, any Assumed Contract or any contract to which Seller is a party, or result in the creation of any Encumbrance (other than a Permitted Encumbrance) upon any of the Transferred Assets; or (c) assuming the receipt or making of all Approvals, violate or result in a breach of or

constitute a default under any Law, judgment, injunction, order, decree or other restriction of any Governmental Entity to which Seller is subject.

Section 3.5 Binding Effect.

This Agreement and each Closing Document, when executed and delivered by Buyer, Acquisition Sub and Seller, will constitute valid and legally binding obligations of Seller, enforceable against it in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

Section 3.6 Financial Statements.

Attached as Schedule 3.6 are the following financial statements (collectively the "***Financial Statements***"): (i) a reviewed balance sheet, statement of income and retained earnings and cash flow statement as of and for the fiscal year ended December 31, 2007 (the "***Most Recent Fiscal Year End***") for Seller; and (ii) unaudited balance sheets and profit and loss statements for each fiscal quarter of Seller since December 31, 2007, including the unaudited balance sheet and profit and loss statement (the "***Most Recent Financial Statements***") as of and for the fiscal quarter ended June 30, 2008 (the "***Most Recent Fiscal Quarter***") for Seller. The Financial Statements are true, correct and complete in all material respects, are consistent with Seller's Books and Records (which Books and Records are correct and complete) applied on a consistent basis throughout the periods covered thereby, present fairly the financial condition of Seller as of such dates and the results of operations of Seller for such periods.

Section 3.7 Title.

With respect to all of the Transferred Assets, Seller has and will have at Closing: (i) good title to all tangible property included in the Transferred Assets, free and clear of all Encumbrances except for Permitted Encumbrances; and (ii) all right, title and interest in and to all intangible property included in the Transferred Assets, free and clear of all Encumbrances except for Permitted Encumbrances and, in the case of the Assumed Contracts, subject to the rights of third parties thereunder. Seller will effectively transfer such title to all of the Transferred Assets to Buyer at Closing.

Section 3.8 Transferred Assets.

(a) The Transferred Assets, when taken together with the Excluded Assets, constitute all properties, assets and leasehold estates, real, personal and mixed, tangible and intangible, comprising, used or useful in the operation of the Business on the date hereof and immediately prior to Closing.

(b) Except as set forth in Schedule 3.8(b), those Transferred Assets that are tangible and are presently being used by Seller for manufacturing Products, are free from defects (patent and latent), have been maintained in accordance with normal industry practice, are in good operating condition and repair (subject to normal wear and tear), and are suitable for the purposes for which they are presently used and proposed to be used.

(c) All of the Inventory is good and marketable and, except as set forth in Schedule 3.8(c), all of the Software and Products included in the Inventory are the respective current versions thereof.

Section 3.9 Compliance With Laws.

(a) The Business has been and is being conducted in compliance with all Laws, except for any non-compliance that would not, individually or in the aggregate have a Material Adverse Effect. The Seller has all Governmental Authorizations necessary for the conduct of the Business as currently conducted, except for those Governmental Authorizations the absence of which would not, individually or in the aggregate, have a Material Adverse Effect.

(b) To Seller's Knowledge, each of the premises of the Business conforms to and complies with all covenants, conditions, restrictions, reservations, land use, zoning, health, fire, water and building codes and other similar Laws, and no such Laws prohibit or limit or condition the use or operation of such premises as currently used and operated. There is no pending, or to Seller's Knowledge, contemplated, threatened or anticipated change in the zoning classification of any of such premises. To Seller's Knowledge, Seller has operated and maintained such premises in accordance with applicable Laws.

Section 3.10 Litigation and Claims.

Except as set forth on Schedule 3.10: (a) there is no civil, criminal or administrative Claim or investigation pending or, to Seller's Knowledge, threatened, against Seller or any Seller Affiliate with respect to or relating to the Business, any of the Transferred Assets or Assumed Liabilities; and (b) neither the Business, nor any of the Transferred Assets nor any Assumed Liability is subject to any order, writ, judgment, award, injunction or decree of any Governmental Entity or of any arbitrator.

Section 3.11 Undisclosed Liabilities.

Except as set forth on Schedule 3.11, Seller has no Liability (and to Seller's Knowledge, there is no basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against any of them giving rise to any Liability), except for (i) Liabilities set forth on the face of the Most Recent Financial Statements and (ii) Liabilities which have arisen after the Most Recent Fiscal Quarter in the Ordinary Course (none of which results from, arises out of, relates to, is in the nature of, or was caused by any breach of contract, breach of warranty, tort, infringement, or violation of law).

Section 3.12 Intellectual Property.

(a) Seller owns or has the right to use pursuant to written license, sublicense, agreements or permission all of the Transferred Intellectual Property. Each item of Transferred Intellectual Property and Seller's rights under the Assumed License Agreement will be owned or available for use by right by Buyer immediately upon Closing, without the payment of any additional amounts to any third party, other than applicable Assumed Liabilities. Upon Closing, all available patent rights as to any of the Transferred Intellectual Property or any of the Products may be pursued exclusively by Buyer.

(b) Seller owns and Buyer will receive at Closing, free and clear of all Encumbrances (except for Permitted Encumbrances), all Intellectual Property and other proprietary information, processes and formulae used in, related to or arising from the Business or otherwise necessary for the ownership, maintenance and use of the Transferred Assets and the conduct of the Business.

(c) To Seller's Knowledge, Seller has not interfered with, infringed upon, misappropriated or otherwise violated (whether through the use of the Transferred Intellectual Property or otherwise) any Intellectual Property rights of any third party, and no Claim has been asserted by any Person as to the use of the Transferred Intellectual Property or alleging any such interference, infringement, misappropriation or violation (including any Claim that Seller must license or refrain from using any Intellectual Property rights of any third party), and Seller does not know of any valid basis for any such Claim. To Seller's Knowledge, no third party has interfered with, infringed upon, misappropriated or otherwise violated any rights of Seller with respect to the Transferred Intellectual Property. Seller has made available to Buyer all infringement studies, including opinions of counsel, prepared by or on behalf of Seller.

(d) Schedule 2.1(c)(i) identifies all Software of Seller. Seller has made available to Buyer correct and complete copies of all Software that is Transferred Intellectual Property, as amended to date, and has made available to Buyer correct and complete copies of all other written documentation evidencing ownership and prosecution (if applicable) of each such item of Software. Except as set forth in Schedule 3.12(d), with respect to each such item of Software:

(i) the Software is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge nor, to Seller's Knowledge, is any of the foregoing threatened;

(ii) no Claim or investigation is pending or, to Seller's Knowledge, threatened, which challenges the legality, validity, enforceability, use or ownership of the Software; and

(iii) Seller has not agreed to indemnify any Person for or against any interference, infringement, misappropriation or other violation with respect to the Software.

(e) Schedule 2.1(c)(ii), Schedule 2.1(c)(iii) and Schedule 2.1(c)(iv) identify each Patent, Trademark and Copyright of Seller. Seller has made available to Buyer correct and complete copies of all Patents, Trademarks and Copyrights related to such Transferred Intellectual Property, as amended to date, and has made available to Buyer correct and complete copies of all other written documentation evidencing ownership and prosecution (if applicable) of each such Patent, Trademark or Copyright, including all applications, registrations and prosecution materials. Except as set forth in Schedule 3.12(e), with respect to each such Patent, Trademark and Copyright:

(i) the Patent, Trademark or Copyright is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge nor, to Seller's Knowledge, is any of the foregoing threatened;

(ii) no Claim or investigation is pending or, to Seller's Knowledge, threatened, which challenges the legality, validity, enforceability, use or ownership of the Patent, Trademark or Copyright;

(iii) Seller has not agreed to indemnify any Person for or against any interference, infringement, misappropriation or other violation with respect to the Patent, Trademark or Copyright; and

(iv) Seller has not taken, nor does it know of, any actions, including a sale or offer for sale, the disclosure of which could lead to the invalidity of any resulting Patent, Trademark or Copyright.

(f) Schedule 2.1(e) identifies each Product and Seller has made available to Buyer correct and complete copies of all items related to the same, as amended to date, and has made available to Buyer correct and complete copies of all other written documentation evidencing ownership and prosecution (if applicable) of each such Product, including all applications, registrations and prosecution materials. Except as set forth in Schedule 3.12(f), with respect to each Product:

(i) the Product is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge nor, to Seller's Knowledge, is any of the foregoing threatened;

(ii) no Claim or investigation is pending or, to Seller's Knowledge, threatened, which challenges the legality, validity, enforceability, use or ownership of the Product;

(iii) Seller has not agreed to indemnify any Person for or against any interference, infringement, misappropriation or other violation with respect to the Product.

(g) With respect to each Assumed License Agreement:

(i) the Assumed License Agreement is legal, valid, binding, enforceable and in full force and effect with respect to Seller and, to Seller's Knowledge, any other party thereto;

(ii) the Assumed License Agreement will continue to be legal, valid, binding, enforceable and in full force and effect with respect to Buyer and any other party thereto following the consummation of the Transaction;

(iii) neither Seller nor to Seller's Knowledge, any other party to the Assumed License Agreement is in breach or default, and no event has occurred which with notice or lapse of time would constitute a breach or default or permit termination, modification or acceleration thereunder;

(iv) neither Seller nor to Seller's Knowledge, any other party to the Assumed License Agreement has repudiated any material provision thereof or threatened any breach thereof;

(v) to the Seller's Knowledge, (i) with respect to each Assumed License Agreement that is a sublicense of Intellectual Property owned by a third party, the representations and warranties set forth in Section 3.12(g)(i) through Section 3.12(g)(iv) are true and correct with respect to the underlying license; and (ii) no Claim or investigation is pending or threatened that challenges the legality, validity or enforceability of the Intellectual Property owned by a third party underlying the Assumed License Agreement, and there is no basis for any such Claim.

(h) Schedule 3.12(h) sets forth the form and placement of the proprietary legends and copyright notices displayed in or on the Software. To Seller's Knowledge, in no instance has the eligibility of the Software for protection under applicable copyright law been forfeited to the public domain by omission of any required notice or any other action.

(i) Seller has promulgated and used its commercially reasonable efforts to enforce the trade secret protection program set forth in Schedule 3.12(i). To Seller's Knowledge, there has been no material violation of such program by any Person. To Seller's Knowledge, the Transferred Intellectual Property (including any source code and system documentation relating to the Software): (i) has at all times been maintained in confidence; and (ii) has been disclosed by Seller only to employees and consultants having a "need to know" the contents thereof in connection with the performance of their duties to Seller.

(j) To Seller's Knowledge, all personnel, including employees, agents, consultants and contractors, who have contributed to or participated in the conception, reduction to practice or development of the Technical Documentation, Transferred Intellectual Property and Products on behalf of Seller either: (i) have been party to a "work-for-hire" arrangement or agreement with Seller, in accordance with applicable federal and state law, that has accorded Seller full, effective, exclusive and original ownership of, and all right, title and interest in and to, all tangible and intangible property thereby arising; or (ii) have executed appropriate instruments of assignment in favor of Seller as assignee that have conveyed to Seller full, effective and exclusive ownership of all right, title and interest in and to all tangible and intangible property arising thereby.

Section 3.13 Adequacy of Technical Documentation.

The Technical Documentation includes the source code, system documentation, statements of principles of operation and schematics for all of the Intellectual Property, as well as any pertinent commentary or explanation, including any commentary contained in any source code, that may be necessary to Seller's Knowledge, to render such materials understandable to Buyer and, with respect to any Software, usable by a trained computer programmer.

Section 3.14 Intellectual Property Rights Granted to Seller.

(a) Schedule 3.14(a) lists each license, sublicense, agreement and permission by which Seller uses or has right, prospective rights to such rights or interests in any Intellectual Property owned by a third party. Seller has made available to Buyer correct and complete copies of all such licenses, sublicenses and agreements (as amended to date). The Seller has not obtained any such rights in any Intellectual Property under any oral license, sublicense, agreement or permission.

(b) Seller has obtained the full, unrestricted and legal right and license to use, make, have made, copy, publicly display, publicly perform, modify and distribute the third-party Intellectual Property contained in the Transferred Intellectual Property and Technical Documentation pursuant to the Assumed License Agreements. Except as set forth on Schedule 3.14(b), to Seller's Knowledge, the Transferred Intellectual Property and the Technical Documentation contain no other programming, materials or Intellectual Property in which any third party may claim superior, joint or common ownership, including any right or license. The Transferred Intellectual Property and the Technical Documentation do not contain derivative works, reproductions or copies of any

programming or materials not owned in their entirety by Seller and included in the Transferred Assets.

Section 3.15 Third-Party Interests in Intellectual Property.

Schedule 3.15 identifies each license, sublicense, agreement and permission by which a third-party uses or has rights, prospective rights to such rights or interests in any Intellectual Property or Technical Documentation owned by Seller. Seller has made available to Buyer correct and complete copies of all such agreements (as amended to date). The Seller has not granted any such rights in any Intellectual Property under any oral license, sublicense, agreement or permission. The licenses and sublicenses set forth on Schedule 3.15 constitute only end-user agreements, each in a standard form previously disclosed to Buyer and each of which grants the end-user thereunder solely the non-exclusive right and license to use an identified Intellectual Property and related user documentation, for internal purposes only. There are no contracts, agreements, licenses and other commitments and arrangements in effect with respect to the marketing, distribution, licensing, or promotion of the Inventory, the Technical Documentation, the Transferred Intellectual Property or the Products by any independent sales person, distributor, sublicensor or other re-marketer or sales organization.

Section 3.16 Major Vendors and Customers.

Schedule 3.16 lists each third-party licensor, developer, re-marketer, distributor and supplier of property or services to, and each licensee, end-user or customer of, the Business to whom Seller paid or billed in the aggregate $10,000 (in cash, stock, services, debt or other consideration) or more since January 1, 2007, together with, in each case, the amount paid or billed during such period. The consummation of the Transaction will not result in the loss of any significant customer, potential customer or vendor of the Business.

Section 3.17 Assumed Contracts.

(a) Seller has made available to Buyer true and complete copies of each Assumed Contract that is in written form, and true and complete written summaries of each Assumed Contract that is oral. Each of the Assumed Contracts constitutes the valid and legally binding obligation of Seller and is enforceable in accordance with its terms. Each of the Assumed Contracts constitutes the entire agreement of the respective parties thereto relating to the subject matter thereof. All obligations required to be performed under the terms of the Assumed Contracts by the date hereof have been performed by Seller, and to Seller’s Knowledge by the other parties thereto. All obligations required to be performed under the terms of the Assumed Contracts by the Closing Date shall have been performed by Seller, and to Seller’s Knowledge by the other parties thereto. No act or omission has occurred or failed to occur which, with the giving of notice, the lapse of time or both would constitute a default under any of the Assumed Contracts or permit termination, modification or acceleration thereunder, and each of the Assumed Contracts is in full force and effect without default on the part of Seller and, to Seller’s Knowledge, of the other parties thereto.

(b) Except for the Approvals, none of the Assumed Contracts requires consent or waiver for its assignment to and assumption by Acquisition Sub.

(c) Except for this Agreement, the Assumed Contracts, the Plans (as defined in Section 3.21), and any agreements identified in Schedule 2.1(j), there are no: (i) contracts or

commitments affecting the use or value of the Business or any of the Transferred Assets; (ii) agreements, licenses or commitments with respect to Transferred Intellectual Property or affecting the Business or requiring future performance by Seller; (iii) collective bargaining agreements or other contracts or commitments to or with any labor unions or other employee representatives, groups of employees, works councils or the like; (iv) employment contracts or other contracts, agreements or commitments to or with individual current, former or prospective employees, consultants or agents; or (v) joint ventures or other contracts or commitments providing for payments based in any manner on the revenues or profits of Seller, the Business or any Transferred Asset.

Section 3.18 Warranties.

All Products sold and services rendered by the Seller on or before the date hereof have been in conformity with written warranties and commitments and express and implied warranties of Seller as set forth on Schedule 3.18. As of June 30, 2008, the Seller had no Liability for replacement of such Products or other damages in connection with such Products or services rendered, except to the extent of any warranty reserve set forth on the Financial Statements, which warranty reserve is adequate to cover the amount of all reasonably anticipated warranty-related claims for Products sold and services rendered on or before June 30, 2008. As of the Closing Date, the Seller will have no Liability for replacement of such Products or other damages in connection with Products sold or services rendered, except to the extent of any warranty reserve set forth on Schedule 3.18, which warranty reserve will be adequate to cover the amount of all reasonably anticipated warranty-related claims for Products sold or services rendered on or before the Closing Date. No Product sold or service rendered by the Seller is subject to any contractual guaranty, warranty or other indemnity beyond the applicable standard terms and conditions of sale or license. Seller has heretofore made available to Buyer copies of the standard terms and conditions of sale or license used by the Seller, which contain all applicable guaranty, warranty and indemnity provisions.

Section 3.19 Taxes.

Except as set forth on Schedule 3.19:

(a) Seller (and any predecessor of Seller) has been a validly existing S corporation within the meaning of Section 1361 and Section 1362 of the Code at all times during its existence and Seller will be an S corporation up to and including the Closing Date;

(b) Seller has no potential liability for any Taxes under Section 1374 of the Code. Seller has not, in the past ten years, (A) acquired assets from another corporation in a transaction in which Seller’s tax basis for the acquired assets was determined, in whole or in part, by reference to the tax basis of the acquired assets (other than property) in the hands of the transferor or (B) acquired the stock of any corporation that is a qualified subchapter S subsidiary;

(c) Seller (and each affiliated, unitary or combined group of which Seller is or has been a member) has timely filed all material federal, state, local and foreign income and franchise Tax Returns, and all other material Tax Returns that are required to be filed by it on or before the date hereof, and all Taxes shown on any Tax Return have been paid, and the Financial Statements

reflect an adequate accrual, based on the facts and circumstances existing as of the respective dates thereof, for all Taxes payable by Seller through the respective dates thereof;

(d) there are no deficiencies for any Taxes proposed, asserted or assessed against Seller, no requests for waivers of the time to assess any Taxes are pending, and no power of attorney with respect to any Taxes has been executed or filed with any taxing authority;

(e) Seller has complied with all applicable Laws relating to the payment and withholding of material Taxes and has withheld and paid all material Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor or other Person;

(f) there are no Encumbrances for Taxes (other than Permitted Encumbrances set forth on Schedule 3.19) on the assets of Seller;

(g) Seller is not bound by any agreement (either with any Person or any taxing authority) with respect to Taxes that will remain in effect following Closing;

(h) Seller has not constituted either a "distributing corporation" or a "controlled corporation" (within the meaning of Section 355(a)(1)(A) of the Code) in a distribution of stock qualifying for tax-free treatment under Section 355 of the Code (i) in the two (2) years prior to the date of this Agreement or (ii) in a distribution which could otherwise constitute part of a "plan" or "series of related transactions" (within the meaning of Section 355(e) of the Code) in conjunction with the Transaction;

(i) Seller has never been a member of an affiliated, unitary or combined group of corporations (within the meaning of Section 1504 of the Code and any analogous provision of state, local or foreign Law) other than the affiliated group of which Seller is the common parent;

(j) Seller has not filed a consent pursuant to the provisions of Section 341(f) of the Code (or any corresponding provision of state or local Law) or agreed to have Section 341(f)(2) of the Code (or any corresponding provision of state or local Law) apply to any disposition of any asset owned by Seller;

(k) Seller has not agreed to make, nor is required to make, any adjustment under Section 481(a) of the Code or any similar provision of state, local or foreign Law by reason of a change in accounting methods or otherwise;

(l) no property owned by Seller is (i) property required to be treated as being owned by another Person pursuant to the provisions of Section 168(f)(8) of the Internal Revenue Code of 1954, as amended, and in effect immediately prior to the enactment of the Tax Reform Act of 1986, (ii) "tax-exempt use property" within the meaning of Section 168(h)(1) of the Code, (iii) "tax-exempt bond financed property" within the meaning of Section 168(g) of the Code, or (iv) "limited use property" (as that term is used in Rev. Proc. 76-30);

(m) no audit or other administrative or court proceedings are pending with respect to Taxes of Seller and no notice thereof has been received; and no issue has been raised by any

taxing authority in any presently pending or prior audit that could have a Material Adverse Effect on Seller for any period after Closing;

(n) no Claim has been made by a taxing authority in a jurisdiction where Seller does not file Tax Returns that Seller is or may be subject to taxation in that jurisdiction;

(o) Seller is not a party to any contract, agreement or other arrangement which provides for the payment of any amount which would not be deductible by reason of Section 280G of the Code; and

(p) Seller has made available to Buyer true and complete copies of (i) all federal and state income Tax Returns of Seller (or the portion of any affiliated, unitary or combined Tax Return relating to Seller) for the preceding three (3) taxable years, and (ii) any audit report issued within the last three (3) years (or otherwise with respect to any audit or proceeding in progress) relating to Taxes of Seller.

Section 3.20 Employment Matters.

Except as set forth on Schedule 3.20: (a) Seller is not a party to or bound by any collective bargaining or similar agreement; (b) during the three-year period preceding the date hereof, the Business has not experienced any strikes, grievances or Claims of unfair labor practice; (c) Seller has no Knowledge of any organizational effort presently being made or threatened by or on behalf of any labor union with respect to the employees of the Business; (d) during the three-year period preceding the date hereof, there has not been, and there is not presently pending or existing or, to Seller's Knowledge, threatened, any strike, work stoppage, labor arbitration or proceeding in respect of the grievance of any employee, any application or complaint filed by an employee or union with the National Labor Relations Board or any comparable Governmental Entity, organizational activity or other labor dispute against the Business or its premises; (e) no application for certification of a collective bargaining agent is pending or, to Seller's Knowledge, threatened; (f) there is no lockout of any employees by the Business; (g) there are no Claims currently pending or, to Seller's Knowledge, threatened, against Seller alleging the violation of any Laws relating to employment, equal employment opportunity, nondiscrimination, immigration, wages, hours, benefits, collective bargaining, the payment of social security and similar Taxes, occupational safety and health and plant closing (collectively, "***Employment Laws***"), or any other Claim whatsoever, whether based in tort, contract or Law, arising out of or relating in any way to a Person's employment (actual or alleged), application for employment or termination of employment with Seller and, to the Seller's Knowledge, there is no basis for any such Claim; (h) Seller has not been found liable for the payment of Taxes, fines, penalties or other amounts, however designated, for failure to comply with any Employment Laws, and, to the Seller's Knowledge, there is no basis for any such Liability; and (i) Seller has paid all amounts of compensation due to its employees and former employees and has properly withheld and reported Taxes on the same.

Section 3.21 Employee Benefits.

(a) Schedule 3.21(a) lists all formal or informal, written or unwritten, employee benefit plans and collective bargaining, employment or severance agreements or other similar arrangements which the Seller, or any ERISA Affiliate, has ever sponsored, maintained, or to which

contributions are made, or for which obligations have been incurred, for the benefit of employees of the Seller or an ERISA Affiliate, including, without limitation, (1) any "employee benefit plan" (within the meaning of Section 3(3) of ERISA) (the "***Benefit Plans***"), (2) any profit-sharing, incentive compensation (whether cash or equity), commission, deferred compensation, bonus, stock option, stock purchase, pension, retainer, consulting, retirement, severance, welfare or incentive plan, agreement or arrangement, (3) any plan, agreement or arrangement providing for "fringe benefits" or perquisites to employees, officers, directors or agents, including but not limited to benefits relating to automobiles, clubs, vacation, child care, parenting, sabbatical, sick leave, medical, dental, hospitalization, life insurance and other types of insurance, and (4) any employment agreement. The plans, agreements and arrangements described in this Section 3.21 are referred to herein as "***Plans***. Copies of all written Plans and written descriptions of all unwritten Plans have been provided or made available to Buyer.

(b) None of the Plans is (i) a plan subject to Title IV of ERISA or Section 412 of the Code, (ii) a "multiemployer plan" (within the meaning of Section 3(37) of ERISA), (iii) a "multiple employer plan" (within the meaning of Section 3(40) of ERISA or Section 413(c) of the Code), (iv) a "voluntary employees' beneficiary association" (within the meaning of Section 501(c)(9) of the Code), or (v) a "multiple employer welfare arrangement" (within the meaning of Section 3(40)(A) of ERISA).

(c) Neither the Seller nor any ERISA Affiliate has ever contributed to, or had an obligation to contribute to, any plan subject to Title IV of ERISA or Section 412 of the Code, any "multiemployer plan" (within the meaning of Section 3(37) of ERISA), any "multiple employer plan" (within the meaning of Section 3(40) of ERISA or Section 413(c) of the Code), any "voluntary employees' beneficiary association" (within the meaning of Section 501(c)(9) of the Code), or any "multiple employer welfare arrangement" (within the meaning of Section 3(40)(A) of ERISA).

(d) Each Plan has been administered in accordance with: (i) the terms of all applicable governing documents; (ii) the applicable provisions of ERISA, the Code and all other Laws; and (iii) the terms of all applicable employment, collective bargaining and other agreements. Except as set forth in Schedule 3.10, there are no actions, suits, proceedings, disputes, Claims or investigations pending or, to Seller's Knowledge, threatened against or involving any Plan, and there are no investigations by any Governmental Entity or other Claims (except routine claims for benefits payable in the normal operation of the plan) pending or threatened against or involving any Plan or asserting any rights to benefits under any Plan.

(e) All contributions to, and payments from, the Plans that may have been required to be made in accordance with such plans and, when applicable, Section 302 of ERISA or Section 412 of the Code, have been timely made. All such contributions to the Plans, and all payments under the Plans for any period ending before the Closing Date that are not yet, but will be, required to be made with respect to the employees of the Business, are disclosed on Schedule 3.21(e). Seller has funded or will fund each Plan in accordance with its terms through the Closing Date, including the payment of applicable premiums on any insurance contract funding a Plan for coverage provided through the Closing Date.

(f) No "***prohibited transaction***," as defined in Section 406 of ERISA and Section 4975 of the Code, has occurred in respect of any Plan, and no civil or criminal action brought

pursuant to Part 5 of Title I of ERISA is pending or, to Seller's Knowledge, threatened in writing or orally against any fiduciary of any Plan.

(g) All of the Plans that are intended to qualify under Section 401(a) of the Code have received favorable determination letters from the Internal Revenue Service to the effect that such plans are so qualified. No determination letter with respect to any such Plan has been revoked nor has revocation of a determination letter been threatened. No Plan has been amended since the date of its most recent determination letter or application therefor in any respect which would adversely affect its qualification or materially increase its cost, and no Plan has been amended in a matter that would require security to be provided in accordance with Section 401(a)(29) of the Code.

(h) Except as set forth on Schedule 3.21(h), to Seller's Knowledge, there have been no statements or communications made or materials provided to any current or former employee by any Person which constitutes a contract of or binding obligation on Seller to provide for any pension, welfare or other insurance-type benefits to any such employee or former employee, whether before or after retirement, other than benefits under the Plans.

(i) Except as set forth in Schedule 3.21(i) or as expressly set forth in this Agreement, no Transferred Employee will become entitled to any bonus, retirement, severance, job security or similar benefit or any enhanced benefit solely as a result of the Transaction.

(j) There are no unfunded Liabilities of any kind with respect to any employee, whether or not arising under a Plan (including Liabilities arising from any Law, contract, custom, Plan with respect to severance of employment).

(k) There is no liability whatsoever with respect to, or in any way related to, any employee benefit arrangement, the Plans, or the Benefit Plans, which the Buyer shall assume, or could reasonably be expected to assume (by operation of law or otherwise), as part of the transactions contemplated by this Agreement or otherwise.

(l) "***ERISA Affiliate***" means any Person that is a member of "controlled group of corporations" with, or is under "common control" with, or is a member of the same "***affiliated service group***" with the Seller, as defined in Section 414 of the Code.

Section 3.22 Leased Real Property.

(a) Seller does not own any Real Property.

(b) Schedule 3.22(b) sets forth the address of each parcel of Leased Real Property, and a true and complete list of all Leases for each such Leased Real Property (including the date and name of the parties to such Lease document). Seller has delivered to Buyer a true and complete copy of each such Lease document, and in the case of any oral Lease, a written summary of the material terms of such Lease. Except as set forth in Schedule 3.22(b), with respect to each of the Leases:

(i) such Lease is legal, valid, binding, enforceable and in full force and effect;

(ii) this Agreement does not require the consent of any other party to such Lease (except for those Leases for which Lease Consents, as hereinafter defined, are obtained), will not result in a breach of or default under such Lease, and will not otherwise cause such Lease to cease to be legal, valid, binding, enforceable and in full force and effect on identical terms following the Closing;

(iii) Seller's possession and quiet enjoyment of the Leased Real Property under such Lease has not been disturbed and there are no disputes with respect to such Lease;

(iv) neither Seller nor to Seller's Knowledge any other party to the Lease is in breach or default under such Lease, and to Seller's Knowledge, no event has occurred or circumstance exists which, with the delivery of notice, the passage of time or both, would constitute such a breach or default, or permit the termination, modification or acceleration of rent under such Lease;

(v) no security deposit or portion thereof deposited with respect to such Lease has been applied in respect of a breach or default under such Lease which has not been redeposited in full;

(vi) Seller neither owes or will owe in the future any brokerage commissions or finder's fees with respect to such Lease;

(vii) the other party to such Lease is not an Affiliate of, and otherwise does not have any economic interest in, Seller;

(viii) Seller has not subleased, licensed or otherwise granted any Person the right to use or occupy such Leased Real Property or any portion thereof;

(ix) Seller has not collaterally assigned or granted any Encumbrance in such Lease or any interest therein; and

(x) there are no Encumbrances on the estate or interest created by such Lease.

(c) The Leased Real Property identified on Schedule 3.22(b), comprises all of the real property used or intended to be used in, or otherwise related to, Seller's business; and Seller is not a party to any agreement or option to purchase any real property or interest therein.

(d) To Seller's Knowledge, all buildings, structures, fixtures, building systems and equipment, and all components thereof, including the roof, foundation, load-bearing walls and other structural elements thereof, heating, ventilation, air conditioning, mechanical, electrical, plumbing and other building systems, environmental control, remediation and abatement systems, sewer, storm and waste water systems, irrigation and other water distribution systems, parking facilities, fire protection, security and surveillance systems, and telecommunications, computer, wiring and cable installations, included in the Leased Real Property (the "***Improvements***") are in good condition and repair and sufficient for the operation of Seller's business. There are no structural deficiencies or latent defects affecting any of the Improvements and there are no facts or conditions affecting any of the Improvements which would, individually or in the aggregate,

interfere in any respect with the use or occupancy of the Improvements or any portion thereof in the operation of Seller's business as currently conducted thereon.

(e) There is no condemnation, expropriation or other proceeding in eminent domain, pending or to Seller's Knowledge, threatened, affecting any parcel of Leased Real Property or any portion thereof or interest therein. To Seller's Knowledge, there is no injunction, decree, order, writ or judgment outstanding, nor any claims, litigation, administrative actions or similar proceedings, pending or threatened, relating to the ownership, lease, use or occupancy of the Leased Real Property or any portion thereof, or the operation of Seller's business as currently conducted thereon.

(f) Except as set forth in Schedule 3.22(f), to Seller's Knowledge, the Leased Real Property is in compliance with all applicable building, zoning, subdivision, health and safety and other land use laws, including the Americans with Disabilities Act of 1990, as amended and the current use and occupancy of the Leased Real Property and the operation of Seller's business thereon does not violate any Laws. Seller has not received any notice of violation of any Law and there is no basis for the issuance of any such notice or the taking of any action for such violation. There is no pending or anticipated change in any Law that will materially impair the use or occupancy of any Leased Real Property or any portion thereof in the continued operation of Seller's business as currently conducted thereon.

(g) To Seller's Knowledge, all certificates of occupancy, permits, licenses, franchises, approvals and authorizations (collectively, the "***Leased Real Property Permits***") of all governmental authorities, boards of fire underwriters, associations or any other entity having jurisdiction over the Leased Real Property which are required or appropriate to use or occupy the Leased Real Property or operate Seller's business as currently conducted thereon, have been issued and are in full force and effect. Schedule 3.22(g) lists all material Real Property Permits held by Seller with respect to each parcel of Leased Real Property. Seller has delivered to Buyer a true and complete copy of all Real Property Permits. Seller has not received any notice from any governmental authority or other entity having jurisdiction over the Leased Real Property threatening a suspension, revocation, modification or cancellation of any Real Property Permit and to Seller's Knowledge, there is no basis for the issuance of any such notice or the taking of any such action. The Real Property Permits are transferable to Seller without the consent or approval of the issuing governmental authority or entity, no disclosure, filing or other action by Seller is required in connection with such transfer, and Buyer shall not be required to assume any additional liabilities or obligations under the Real Property Permits as a result of such transfer.

Section 3.23 Environmental Matters.

(a) Seller has complied in all material respects with all Environmental Laws, and no Claim or investigation has been filed or commenced against Seller or the Business alleging such failure, nor does Seller know of any valid basis for such a Claim.

(b) Except as set forth in Schedule 3.23, the Business does not have any Liability (and the Business has not handled, used, stored, recycled or disposed of any Hazardous Substance, arranged for the disposal of any Hazardous Substance, exposed any employee or other Person to any Hazardous Substance or hazardous condition, or owned or operated any property or facility in any

manner, in each case that could reasonably be expected to form the basis for any present or future Claim or investigation giving rise to any such Liability) for damage or remediation to any site, location or body of water (surface or subsurface), or for any illness of or personal injury to any employee or other Person, under any Environmental Law.

Section 3.24 Insurance.

Annexed hereto as Schedule 3.24, is a list of all insurance policies covering the ownership and operations of the Business or the Transferred Assets, reflecting the policies' terms, identity of insurers, amounts and coverage. Such insurance provides coverage for such risks, and in such amounts, as are reasonable and customary for businesses and assets of the same nature and size as the Business and the Transferred Assets. All of such policies, or similar replacement policies, are now and will be until Closing in full force and effect with no premium arrearages.

Section 3.25 Subsequent Changes.

Since December 31, 2007, there has not occurred any event, condition or change in the operations, condition (financial or otherwise) or assets of the Business that has had, or would at a later date have, a Material Adverse Effect. Without limiting the generality of the foregoing, since December 31, 2007, except as set forth on Schedule 3.25, Seller has not:

(a) sold, leased, transferred, pledged, encumbered or assigned any of the assets of the Business outside the Ordinary Course;

(b) entered into any agreement, contract, lease or license (or series of related agreements, contracts, leases, and licenses) other than Ordinary Course sales and purchase orders;

(c) accelerated, terminated, modified or canceled any Assumed Contract except in the Ordinary Course, or materially modified the Business's backlog; and to Seller's Knowledge, no other party has done so as a result of any default by Seller;

(d) made any capital expenditure (or series of related capital expenditures) involving more than $10,000;

(e) made any capital investment in, any loan to, or any acquisition of the securities or assets of, any other Person;

(f) issued any note, bond or other debt security or created, incurred, assumed or guaranteed any indebtedness for borrowed money or capitalized lease obligation;

(g) imposed any Encumbrances upon any of its assets, tangible or intangible;

(h) delayed or postponed the payment of accounts payable or other Liabilities, or accelerated the payment of any accounts receivable, outside the Ordinary Course;

(i) canceled, compromised, waived or released any material right or Claim (or series of related rights and Claims) outside the Ordinary Course;

(j) granted any license or sublicense of any rights under or with respect to any Intellectual Property outside the Ordinary Course;

(k) experienced any material damage, destruction or loss to the assets of the Business not covered by insurance;

(l) granted any increase in the base compensation of any employee or made any other material change in employment terms for any employee, except for normal compensation increases made in the Ordinary Course;

(m) disclosed any Confidential Information; or

(n) entered into any commitment to do any of the foregoing.

Section 3.26 Related-Party Transactions.

Except as disclosed in Schedule 3.26, Seller is not a party to any contract, agreement, license, lease or arrangement with, or any other commitment to, directly or indirectly: (a) any stockholder, director, officer, Affiliate or salaried employee of Seller; or (b) any Person in which any such stockholder, director, officer or salaried employee has a material equity or participating interest.

Section 3.27 Inventory.

All of the Inventory has been costed and valued, and accurately presented in the Financial Statements. All of the Inventory is of good and merchantable quality and is saleable and useable in the Ordinary Course.

Section 3.28 Finders' Fees.

There is no investment banker, broker, finder or other intermediary who has been retained by or is authorized to act on behalf of Seller or Seller Affiliate who might be entitled to any fee or commission from Buyer or any Affiliate of Buyer in connection with the Transaction.

Section 3.29 Disclosure.

The provisions of this Agreement and the schedules with respect to Seller, and the provisions of all other documents and information furnished by Seller pursuant hereto, do not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made herein and therein not misleading.

Section 3.30 Powers of Attorney.

There are no outstanding powers of attorney executed on behalf of Seller.

Section 3.31 Books and Records.

All Books and Records, including, correspondence, customer lists, records and information, sales and promotional materials, catalogs and advertising literature, advertiser lists, customer market data, blueprints, drawings and other technical papers and specifications, product research and test

data, quality control records, service manuals, service bulletins, training materials, product bulletins, product information booklets, maintenance, repair and asset history and depreciation records, records or files kept pursuant to any law, records and files kept in connection with or as required in all material respects by any Governmental Entity (including the Occupational Safety and Health Administration, the Office of Federal Contract Compliance Programs, the Environmental Protection Agency, the California Department of Industrial Relations or the United States Departments of Labor), and accounting records, ledgers and books of original entry relating to the operation of the Business are, and have been, maintained in Seller's usual, regular and ordinary manner consistent with past practice.

Section 3.32 Shares.

Seller and each Selling Shareholder acknowledge that the Shares have not been registered under the Securities Act and accordingly may not be transferred by sale, gift, pledge or otherwise unless: (i) a registration statement with respect to the transfer of the Shares shall be in effect under the Securities Act; or (ii) the transferor shall have obtained an opinion of counsel and/or other documentation related to such transfer, in form and content satisfactory to the Buyer and its counsel, evidencing that the transfer is exempt from the registration requirements of the Securities Act, is in compliance with applicable state securities law, and will not result in any violation of the Securities Act or any other applicable law. The Shares are being acquired by the Seller without a view to resale in connection with any distribution thereof within the meaning of the Securities Act and each Selling Shareholder acknowledges and represents and warrants that the Shares will not thereafter be transferred except in accordance with the provisions of this section.

ARTICLE IV. REPRESENTATIONS AND WARRANTIES OF BUYER

As of the date hereof and (except as otherwise expressly stated herein) as of the Closing, Buyer represents and warrants to Seller and each Selling Shareholder as follows:

Section 4.1 Organization and Power.

Each of Buyer and Acquisition Sub is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware and Florida, respectively, and, on or before the Closing Acquisition Sub shall duly register as a foreign corporation doing business in California. Each of Buyer and Acquisition Sub has all requisite corporate power and authority to enter into this Agreement and the Closing Documents, to perform their obligations hereunder and thereunder, to own, lease and operate its assets, and to carry on their businesses as now being conducted.

Section 4.2 Authorization.

Each of Buyer and Acquisition Sub has full corporate power and authority to execute and deliver this Agreement and each Closing Document, and to perform its obligations hereunder and thereunder. The execution, delivery and performance by Buyer and Acquisition Sub of this Agreement and each Closing Document have been duly and validly authorized by all necessary corporate action on the part of Buyer and Acquisition Sub, and no additional corporate authorization or consent is required in connection therewith.

Section 4.3 Approvals.

Except as disclosed on Schedule 4.3, no consent, approval, waiver, authorization or novation is required to be obtained by Buyer or Acquisition Sub from, and no notice or filing is required to be given by Buyer or Acquisition Sub to or made by Buyer or Acquisition Sub with, any Governmental Entity or other Person in connection with the execution, delivery and performance by Buyer or Acquisition Sub of this Agreement and each Closing Document and the consummation of the Transaction.

Section 4.4 Non-Contravention.

The execution, delivery and performance by Buyer and Acquisition Sub of this Agreement and each Closing Document, and the consummation of the Transaction does not and will not: (a) violate any provision of the articles of incorporation, bylaws or other organizational documents of Buyer and Acquisition Sub; (b) conflict with, or result in the breach of, or constitute a default under, or result in the termination, cancellation or acceleration (whether after the filing of notice or the lapse of time or both) of any right or obligation of Buyer or Acquisition Sub under, any agreement, contract, lease, sublease, arrangement, commitment or license to which Buyer or Acquisition Sub is a party or by which any of their assets are bound; or (c) violate or result in a breach of or constitute a default under any Law, judgment, injunction, order, decree or other restriction of any Governmental Entity to which Buyer or Acquisition Sub is subject.

Section 4.5 Binding Effect.

This Agreement and each Closing Document, when executed and delivered by Buyer, Acquisition Sub and Seller, will constitute valid and legally binding obligations of Buyer and Acquisition Sub, enforceable against Buyer and Acquisition Sub in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equity principles.

Section 4.6 Finders' Fees.

There is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of Buyer or any Affiliate of Buyer who might be entitled to any fee or commission from Seller or any Affiliate of Seller in connection with the Transaction.

Section 4.7 Disclosure.

The provisions of this Agreement with respect to Buyer, and the provisions of all other documents and information furnished by Buyer pursuant hereto, do not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements herein and therein not misleading.

ARTICLE V. COVENANTS

Section 5.1 Access.

Prior to Closing, Seller will permit Buyer and its representatives to have access, during regular business hours and upon reasonable advance notice, to the Books and Records of Seller relating to the assets, Liabilities and operations of the Business, to Seller's employees and to the locations at which the Business is conducted or at which such Books and Records are located, subject to reasonable security regulations of Seller and any Laws. Seller will furnish, or cause to be furnished, to Buyer any financial and operating data and other information that is available with respect to the Business as Buyer from time to time reasonably requests, and will instruct its employees, counsel, independent accountants and financial advisors to cooperate with Buyer in its investigation of the Business.

Section 5.2 Conduct of Business.

(a) During the period from the date hereof to Closing, except as otherwise contemplated by this Agreement or as Buyer otherwise consents in writing, Seller will conduct the Business in the Ordinary Course and without limiting the generality of the foregoing will not:

(i) incur or guaranty any indebtedness other than trade payables incurred in the Ordinary Course;

(ii) incur, create or assume any Encumbrance (other than a Permitted Encumbrance) on any assets, other than in the Ordinary Course;

(iii) acquire or dispose of any assets, other than in the Ordinary Course;

(iv) make any change of accounting or accounting practice, procedure or policy;

(v) enter into any agreement, contract, lease or license (or series of related agreements, contracts, leases, and licenses) other than those in the Ordinary Course or those described in Schedule 5.2;

(vi) accelerate, terminate, modify or cancel any Assumed Contract, or materially modify the Business's backlog;

(vii) make any capital expenditure (or series of related capital expenditures) involving more than $5,000;

(viii) fail to maintain the Transferred Assets that are tangible and all parts thereof in as good working order and condition as at present, ordinary wear and tear excepted;

(ix) fail to keep in full force and effect its current insurance policies or other comparable insurance affecting the Business or the Transferred Assets;

(x) make any capital investment in, any loan to, or any acquisition of the securities or assets of, any other Person;

(xi) issue any note, bond or other debt security or create, incur, assume or guarantee any indebtedness for borrowed money or capitalized lease obligation;

(xii) cancel, compromise, waive or release any material right or Claim (or series of related rights and Claims) outside the Ordinary Course;

(xiii) dispose of, license or permit to lapse any rights in any Transferred Intellectual Property;

(xiv) grant any increase in the base compensation of any of its employees or make any other material change in benefit plans or employment terms for any of its employees;

(xv) pay or distribute any cash outside of the Ordinary Course; or

(xvi) enter into any commitment to do any of the foregoing.

(b) During the period from the date hereof to Closing, Seller will use commercially reasonable efforts to preserve the Business and the Transferred Assets intact and to preserve for Buyer its relationship with licensors, developers, consultants, re-marketers, suppliers, distributors, customers, employees and others having regular business relations with it. If, during the period from the date hereof to Closing, the Seller desires to terminate the employment of any employee, it shall give the Buyer five (5) business days' prior written notice before making such termination.

Section 5.3 Reasonable Efforts; Further Assurances.

(a) During the period from the date hereof to Closing, Seller and Buyer will each cooperate and use commercially reasonable efforts to fulfill the conditions precedent to its own and the other party's obligations hereunder.

(b) Seller and Buyer will cooperate and use their respective commercially reasonable efforts to comply with all Laws in furtherance of the Transaction, including the execution of additional agreements, instruments and documents that may be required by local Law. Subject to the provisions hereof, from time to time before and after the Closing Date, each party will promptly execute, acknowledge and deliver any other assurances or documents reasonably requested by the other party and necessary for the other party to satisfy its obligations hereunder or to obtain the benefits contemplated hereby.

Section 5.4 Business Name Change.

In furtherance of the purchase and sale of the Transferred Assets hereunder, Seller will cause the business name of Seller and any Seller Affiliate to be changed, effective as of the Closing Date, to a name completely dissimilar to "***U.S. Energy Systems, Inc.***" and thereafter will not adopt, use, cause to be used or approve or sanction the use of such names, the name "***U.S. Energy Systems, Inc.***" or any other name so similar as to cause confusion or create a likelihood of confusion with the

name U.S. Energy Systems or any derivation thereof, or any other trade name or assumed name comprising the Transferred Assets.

Section 5.5 Exclusivity.

(a) From the date of this Agreement until November 12, 2008 (the "***No Shop Period***"), or such earlier date as this Agreement is terminated under Section 8.1 hereof:

(i) Buyer will have the exclusive right to negotiate with Seller with respect to a Purchase Transaction;

(ii) Seller will and will cause each Affiliate and representative of Seller to: (A) terminate all current discussions and negotiations regarding a Purchase Transaction with any party other than Buyer or Buyer's Affiliates; and (B) not seek or initiate proposals or offers from, enter into, continue or engage in discussions or negotiations with, or furnish information to any party other than Buyer or Buyer's Affiliates relating to a Purchase Transaction.

(b) For purposes of this Section 5.5, "***Purchase Transaction***" means (i) any direct or indirect acquisition, whether by purchase, merger, consolidation, stock sale (primary or secondary) or any other structure which would result in the sale of any part of Seller's capital stock, assets or business, in either one or a series of transactions; or (ii) any arrangement whereby effective operating control of Seller's assets, consolidated business or a substantial portion thereof is granted to another party.

(c) During the No-Shop Period, Seller will promptly notify Buyer of the existence of any proposal or communication it receives from any person concerning not only a Purchase Transaction but also any transaction similar to that described in subsection (a) above for any part of Seller's capital stock, assets or business.

(d) Buyer and Seller agree that the certain Letter of Intent between Buyer and Seller dated September 8, 2008, is hereby terminated and superseded, in its entirety, by the terms of this Agreement.

Section 5.6 Confidentiality.

(a) Seller and Buyer (each, the "***Receiving Party***") hereby covenant and agree, each on behalf of itself and on behalf of its Affiliates, that from and after the Closing Date, Receiving Party and its Affiliates will not (unless legally compelled to do so) disclose, give, sell, use or otherwise divulge any Confidential Information of the other party (the "***Disclosing Party***") or permit their respective employees, officers, directors or advisors to do the same. If Receiving Party or its Affiliates, or any of their respective employees, officers, directors or advisors become legally compelled to disclose any Confidential Information, Receiving Party shall provide Disclosing Party with prompt written notice of such requirement so that Disclosing Party may seek a protective order or other remedy or waive compliance with this Section 5.6. In the event that such protective order or other remedy is not obtained, or Disclosing Party waives compliance with this Section 5.6, Receiving Party or its Affiliates, as applicable, shall furnish only that portion of Confidential Information which is legally required to be provided and exercise its commercially reasonable efforts to obtain assurances that appropriate confidential treatment will be accorded Confidential

Information. The confidentiality and restrictive use obligations under this Section 5.6 shall not apply to information which is independently developed by Receiving Party or its Affiliates after Closing without the use or benefit of any information that would otherwise be Confidential Information as shown by records maintained in the ordinary course of the developing party's business, or to any information that, at the time of disclosure, is or subsequently becomes available publicly; provided, however, that such information was not disclosed in breach of this Agreement by Receiving Party, Receiving Party's Affiliates or their respective employees, officers, directors or advisors.

(b) Receiving Party, on behalf of itself and on behalf of its Affiliates and their respective employees, officers, directors or advisors acknowledges that a breach of its obligations under this Section 5.6 may result in irreparable injury to Disclosing Party. In the event of the breach by Receiving Party or any of its Affiliates or their respective employees, officers, directors or advisors of any of the terms and conditions of this Section 5.6 to be performed, Disclosing Party shall be entitled, if it so elects, to institute and prosecute proceedings in any court of competent jurisdiction, either at law or in equity, to obtain damages for any breach of this Section 5.6, or to enforce the specific performance thereof by such party or to enjoin such party from violating the provisions of this Section 5.6 by seeking a temporary restraining order or similar relief.

(c) Buyer and Seller agree that upon Closing the confidentiality and non-disclosure provisions set forth in that certain Letter of Intent between Buyer and Seller dated September 8, 2008, will automatically terminate and be superseded, in their entirety, by the terms of this Agreement.

Section 5.7 Public Disclosure.

Notwithstanding anything herein to the contrary, Seller may not issue or cause to be issued a press release or similar public announcement or communication, whether prior or subsequent to Closing, concerning the Transaction or the execution, performance or terms of this Agreement, unless specifically approved in advance in writing by Buyer. Seller will cause its Affiliates to comply with the terms and conditions of this section and Seller will be liable for any breach of this section by its Affiliates.

Section 5.8 Bulk Sales.

If the provisions of Article 6 of the Uniform Commercial Code have not been repealed in each jurisdiction where any of the Transferred Assets are located, Seller and Buyer hereby waive compliance with the provisions of Article 6 of the Uniform Commercial Code in each such jurisdiction that has not repealed such article and where any of the Transferred Assets are located in connection with the Transaction. Seller will be responsible for all Liabilities arising out of the parties' waiver of such compliance.

Section 5.9 Taxes.

(a) Responsibility for the preparation and filing of Tax Returns and the payment of Taxes incurred as a result of the sale and transfer of the Transferred Assets and the Assumed Liabilities hereunder will be as follows:

(i) Buyer and Seller will each prepare and file such Tax Returns as may be, respectively, required of them in connection with all excise, sales, use, value added, transfer, stamp, documentary, filing, recordation or other similar Taxes incurred as a result of the sale and transfer of the Transferred Assets and the Assumed Liabilities hereunder in accordance with the form of the Transaction as may otherwise be required by a Governmental Entity; provided, however, that the cost of all such Taxes will be borne by Buyer;

(ii) Seller will be responsible for the preparation and filing of any required income Tax Returns and the payment of all of Seller's income Taxes incurred as a result of the sale and transfer of the Transferred Assets and the Assumed Liabilities hereunder;

(iii) Seller will be responsible for the preparation and filing of all Tax Returns and the payment of all other Taxes of any nature incurred in the Business or relating to the Transferred Assets, the Assumed Liabilities and the Applicable Employees for the period up to and including the Closing Date; and

(iv) For the period after the Closing Date, Buyer will be responsible for the preparation and filing of all Tax Returns and the payment of all other Taxes of any nature incurred or relating to the Transferred Assets or the Assumed Liabilities.

(b) Buyer and Seller will provide each other with such cooperation and information as either of them reasonably may request of the other in connection with filing any Tax Return, amended return or Claim for refund, determining a Liability for Taxes or a right to refund of Taxes or preparation for litigation or investigation of Claims or in connection with any audit. Each of Buyer and Seller will retain all Tax Returns, schedules and work papers and all material records or other documents relating to Tax matters of the Business for the taxable year of Seller ending after the Closing Date and for all previous years, until the expiration of the statute of limitations of the taxable years to which such Tax Returns and other documents relate (and, to the extent notified by the other party in writing, any extensions thereof). Any information obtained under this Section 5.9(b) will be kept confidential as contemplated by Section 5.6, except as may be otherwise necessary in connection with the filing of Tax Returns or Claims for refund or in conducting an audit or other proceeding related to the payment of Taxes.

(c) If in order to prepare properly documents required to be filed with Governmental Entities or its financial statements, it is necessary that either Buyer or Seller be furnished with additional information relating to the Transferred Assets or the Assumed Liabilities and such information is in the possession of the other party, such other party will use its reasonable efforts to furnish such information in a timely manner to the party reasonably requiring such information, at the cost and expense of the party requiring such information.

(d) With respect to all Hired Employees, Seller will cause to be issued IRS Form W-2s for that portion of calendar year 2008 ending on the Closing Date during which time the Hired Employees were employees of Seller. Buyer shall have no obligation to issue any IRS Form W-2s to any Hired Employee for any period on or before the Closing Date.

(e) Seller and Buyer will file or provide to each other such Tax Returns, forms and other documents as may be required or necessary to minimize or obtain an exemption from any

excise, sales, use, value added, transfer, stamp, documentary, filing, recordation or other similar Taxes that arise with respect to the Transferred Assets, or the Assumed Liabilities. Without limiting the generality of the foregoing, on or before the Closing Date Buyer will provide Seller with any required sales Tax exemption certificates of Buyer required in connection with the Transaction.

(f) Notwithstanding any other provision of this Section 5.9, no party will have access to the other party's federal, state or foreign income Tax Returns or Books and Records relating thereto.

Section 5.10 Determination and Allocation of Consideration.

Seller and Buyer agree to allocate the Purchase Price in accordance with Schedule 5.10, which shall be prepared by Buyer, and otherwise in accordance with Section 1060 of the Code. Buyer will prepare, and Buyer and Seller will file, an IRS Form 8594 in a timely fashion in accordance with the rules under section 1060 of the Code and in accordance with Schedule 5.10. The determination and allocation of the Purchase Price made pursuant to this Section 5.10 will be binding on Seller and Buyer for all Tax reporting purposes. Neither Seller nor Buyer shall file any tax return or other document or otherwise take any position that is inconsistent with the allocation determined pursuant to this Section 5.10.

Section 5.11 Covenants Not to Sue or Assert Rights.

Seller hereby covenants not to sue Buyer, its Affiliates or their successors, assignees or licensees, from and after the Closing Date, for infringement of any Transferred Intellectual Property. Seller shall not assert rights, from and after the Closing Date, in any Transferred Intellectual Property against Buyer, its Affiliates or their successors, assignees or licensees.

Section 5.12 Certain Contracts.

If the Seller fails to disclose any written or oral license, sublicense, agreement, contract, permission or other understanding to Buyer either in the course of Buyer's due diligence or in any schedule hereto, and Buyer later learns of the same, then Buyer may, in its sole discretion, require the Seller to assign the same or procure the benefits of the same for Buyer.

Section 5.13 Risk of Loss.

Seller will bear all risk of loss, destruction or damage to any of the Transferred Assets occurring prior to the Closing Date, whether due to fire, accident or other casualty, willful act, condemnation, riot, act of God or otherwise, and Buyer will have no responsibility with respect thereto.

Section 5.14 Real Estate Matters.

Buyer and Seller will use commercially reasonable efforts to reach a mutually beneficial agreement with the landlords of the Seller's two Riverside, California facilities and the Seller's Waipahu, Hawaii facility that will allow the Buyer or Acquisition Sub to continue to operate the Business out of those facilities.

Section 5.15 Employees.

(a) As used herein, the following terms will have the following respective meanings:

(i) "***Applicable Employees***" means all employees of the Business on the date hereof, as set forth on Schedule 5.15. Seller will cause Schedule 5.15 to include the title, current base salary or compensation and target compensation of each Person listed thereon.

(ii) "***Hired Employees***" means all Applicable Employees, whom Buyer determines, in its sole discretion, to offer to employ and who accept employment with Buyer or its Affiliates.

(b) As soon as practicable after the date hereof, Seller will provide Buyer with access to all Applicable Employees for the purpose of making offers of employment or offers to become independent contractors, if any, as well as conducting discussions preparatory thereto. On the Closing Date, Seller will terminate the employment of each Applicable Employee who has accepted Buyer's offer of employment or any offer to become an independent contractor and take all such other actions necessary to allow such Applicable Employee and any former employee to work for Buyer or its Affiliates in either such capacity. Seller will also not take any action to prevent Buyer from offering employment or an independent contractor arrangement to any Applicable Employee or former employee of Seller. Notwithstanding the foregoing, nothing in this Agreement will be deemed to require Buyer to hire or engage any Applicable Employee or former employee at all or on any terms.

(c) With respect to any Applicable Employees, Seller will be responsible for and will pay any and all severance, retention, termination and other compensation or benefit payments (if any), damages and costs, and the applicable Taxes related thereto, which are or may become payable, under Law or contract.

(d) Seller will be solely responsible for, and Buyer will not have any Liability with respect to: (i) all compensation and benefits agreements and arrangements that are not included among the Assumed Contracts; (ii) all obligations to employees or former employees of Seller (regardless of if they are Hired Employees); (iii) all employee retirement, health, welfare or benefit plans and programs of Seller; (iv) all obligations with respect to unemployment compensation and workers' compensation from Claims arising on or before the Closing Date out of the Claimant's employment by Seller; and (v) all obligations or liabilities arising under the Worker Adjustment and Retraining Notification Act, including notification requirements to employees and appropriate Governmental Entities.

(e) Notwithstanding anything in this Agreement to the contrary, on and after the Closing Date, Seller and Seller's Affiliates will comply in all respects with the group health plan continuation coverage requirements of COBRA. Without limiting the generality of the foregoing, Seller and Seller's Affiliates will comply with all COBRA requirements that arise as a result of the Transaction or have arisen prior to the Transaction, including COBRA requirements which could be imposed upon Buyer under current final or proposed regulations. Seller and Seller's Affiliates will make continuation coverage available to all eligible employees or former employees of Seller or

Seller's Affiliates, and their respective spouses and dependents, even if Seller or Seller's Affiliates cease to provide group health plan coverage to any employees after the Closing Date.

(f) Seller and each Hired Employee shall terminate, effective as of the Closing Date, any employment agreements or arrangements of any sort between them that are in effect immediately prior to the Closing (and, in each case, shall take such further actions as are necessary to extinguish any rights thereunder that might otherwise survive the termination of the underlying employment agreement or arrangement).

Section 5.16 Enforcement of Rights.

At all times after Closing, upon request from Buyer, Seller will take all reasonable actions to enforce the provisions of any employment, independent contractor or other agreement to which Seller is a party to the extent that Buyer deems it necessary for the protection of Buyer's rights to the Transferred Intellectual Property or any other rights acquired by Buyer hereunder, including, Seller's rights under any non-competition, non-solicitation, non-disclosure, assignment of invention and similar agreements.

Section 5.17 Notices and Consents.

Seller will give any notices to third parties, and will use its best efforts to obtain any third party consents referred to in Schedule 1.1. Each of the Parties will give any notices to, make any filings with, and use its best efforts to obtain any authorizations, consents, and approvals of governments and governmental agencies in connection with the matters referred to in Section 3.3, Section 3.4, and Section 3.17(b) above.

Section 5.18 Notice of Developments.

Seller will give prompt written notice to Buyer of any Material Adverse Effect causing a breach of any of the representations and warranties in Section 3 above. Each Party will give prompt written notice to the others of any Material Adverse Effect causing a breach of any of his or its own representations and warranties in Section 3 or 4 above. No disclosure by any Party pursuant to this section, however, shall be deemed to amend or supplement the disclosure schedule or to prevent or cure any misrepresentation, breach of warranty, or breach of covenant.

Section 5.19 S Corporation Status.

Seller shall not revoke its election to be taxed as an S corporation within the meaning of Section 1361 and Section 1362 of the Code prior to the Closing Date. Seller shall not take or allow any action, other than the sale of its assets pursuant to this Agreement, which would result in the termination of its status as a validly electing S corporation within the meaning of Section 1361 and Section 1362 of the Code.

Section 5.20 Non-Solicitation

During the twenty four (24) month period immediately following the Closing Date, without the prior written consent of Buyer, neither Seller nor any Seller Affiliate (which includes each Selling Shareholder) will, directly or indirectly, hire or otherwise use or solicit the services of any

Person who then is, or who was during the then-preceding six (6) months, an employee of Buyer or any Subsidiary of Buyer and who was an employee of Seller or any Seller Affiliate thereof immediately prior to Closing.

Section 5.21 Tax Clearances

Within a reasonable time after the Closing Date, Seller, at Seller's expense, shall obtain tax clearance certificates from each U.S. jurisdiction in which Seller files any corporate Tax Returns (to the extent such jurisdiction issues such certificates).

ARTICLE VI. CONDITIONS TO CLOSING

Section 6.1 Conditions to the Obligations of Buyer, Acquisition Sub and Seller.

The obligations of Buyer, Acquisition Sub and Seller to effect Closing are subject to the satisfaction or waiver by Buyer and Seller prior to Closing of each of the following conditions:

(a) ***No Injunctions, Etc.*** No Governmental Entity will have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, or non-appealable judgment, decree, injunction or other final order that is in effect on the Closing Date and prohibits or prevents Closing or the consummation of the Transaction.

Section 6.2 Further Conditions to the Obligation of Buyer and Acquisition Sub.

The obligation of Buyer and Acquisition Sub to effect Closing is subject to the satisfaction by Seller, or a Selling Shareholder, or waiver by Buyer prior to Closing of each of the following further conditions:

(a) ***Representations and Warranties***. The representations and warranties of Seller and each Selling Shareholder contained herein will have been true and correct in all material respects when made, and will be true and correct as of Closing as if made as of Closing (except that representations and warranties that are made as of a specific date need be true and correct only as of such date and except that representations and warranties which are qualified as to materiality shall be true and correct in all respects as made and not subject to a double materiality standard), and Buyer will have received a certificate to such effect dated the Closing Date and executed by a duly authorized officer of Seller and each Selling Shareholder.

(b) ***Covenants***. The covenants and agreements of Seller to be performed prior to Closing will have been duly performed in all material respects, and Buyer will have received a certificate to such effect dated the Closing Date and executed by a duly authorized officer of Seller.

(c) ***Due Authorization.***

(i) Seller's execution, delivery and performance of this Agreement and the Closing Documents and Seller's consummation of the Transaction will have been duly and

validly authorized by all necessary corporate action on the part of Seller's board of directors and Buyer will have received the certificate contemplated by Section 6.2(m)(viii) regarding the same.

(ii) Buyer and Acquisition Sub's execution, delivery and performance of this Agreement and the Closing Documents and Buyer's and Acquisition Sub's consummation of the Transaction will have been duly and validly authorized by all necessary corporate action on the part of Buyer and Acquisition Sub's respective board of directors.

(d) ***No Material Adverse Change.*** Between the date hereof and the Closing Date, there will not have occurred any event, condition or change in the operations, condition (financial or otherwise) of the Transferred Assets or the Business that has had, or would at a later date have, a Material Adverse Effect**.**

(e) ***Employees***. (i) Buyer will be satisfied that all Applicable Employees, who Buyer deems necessary for it to exploit the Transferred Assets, have agreed to be employed by Buyer, Acquisition Sub or their Affiliates, and (ii) Buyer or Acquisition Sub will have entered into the Employment Agreements;

(f) ***Lien Searches and Releases***. Seller will have delivered to Buyer: (i) personal property and Intellectual Property searches, in a form reasonably acceptable to Buyer and dated within a reasonable period of time prior to Closing, listing all Encumbrances or judgments of record affecting the Transferred Assets and (ii) duly executed documents sufficient, when filed or recorded, to release any Encumbrances of any third-party or Affiliate with respect to the Transferred Assets, other than Permitted Encumbrances.

(g) ***Legal Opinion of Seller's Counsel***. On the Closing Date, Buyer shall have received the opinion of Bouza, Klein & Kaminsky, counsel to Seller, in a form reasonably acceptable to Buyer.

(h) ***Seller Required Approvals***. The Seller will have obtained and delivered to Buyer all Approvals listed on Schedule 1.1, each in a form acceptable to Buyer in its sole discretion.

(i) ***Buyer Required Approvals***. The Buyer will have obtained and delivered to Seller all approvals listed on Schedule 4.3.

(j) ***Financing***. Buyer will have obtained financing suitable in form and source and upon terms and conditions satisfactory to Buyer in an amount sufficient to fund Buyer's payment obligations required by Section 2.6 of this Agreement.

(k) ***U.S. Power Systems, Inc.*** Buyer's acquisition of U.S. Power Systems, Inc. shall have been completed as of the Closing Date.

(l) ***Due Diligence***. Buyer shall have conducted a satisfactory due diligence review of the Transferred Assets, Assumed Liabilities and other business operations of Seller.

(m) ***Additional Closing Deliveries.*** Seller will have delivered to Buyer the following:

(i) duly executed bills of sale and other appropriate documents of transfer, in form and substance reasonably acceptable to Buyer, transferring to Buyer all tangible personal property included in the Transferred Assets;

(ii) duly executed assignments, in form and substance reasonably acceptable to Buyer, transferring to Buyer all Transferred Intellectual Property;

(iii) Seller shall have obtained and delivered to Buyer a written consent for the assignment of each of the Leases, and, a waiver of landlord liens, collateral assignment of lease or leasehold mortgage from the landlord or other party whose consent thereto is required under such Lease (the "***Lease Consents***"), in form and substance satisfactory to Buyer;

(iv) duly executed Ancillary Agreements in substantially the form as attached hereto;

(v) a reviewed balance sheet and income statement as of and for the fiscal year ended December 31, 2007;

(vi) duly executed assignments or, where necessary, subcontracts, subleases or sublicenses, in form and substance reasonably acceptable to Buyer, transferring to Buyer all Assumed Contracts;

(vii) a good standing certificate from the California Secretary of State attesting to the subsistence and good standing of the Seller in such jurisdiction and each jurisdiction in which Seller is qualified to do business, dated no more than ten (10) days prior to the Closing Date;

(viii) a certificate signed by duly authorized officers of Seller and dated the Closing Date certifying to Buyer (A) as to the incumbency and genuineness of the signatures of each officer of Seller executing this Agreement and any Closing Document on behalf of the Seller, and (B) the genuineness of the resolutions (attached thereto) adopted by Seller authorizing the execution, delivery and performance of the Agreement and the Closing Documents and the Seller's consummation of the Transaction; and

(ix) a duly executed side letter agreement between Buyer and Tim Jacobs;

(x) such other instruments or documents, in form and substance reasonably acceptable to Buyer, as may be necessary to effect Closing.

Section 6.3 Further Conditions to the Obligation of Seller.

The obligation of Seller to effect Closing is subject to the satisfaction by Buyer or waiver by Seller prior to Closing of each of the following further conditions:

(a) ***Representations and Warranties***. The representations and warranties of Buyer and Acquisition Sub contained herein will have been true and correct in all material respects when made, and will be true and correct as of Closing as if made as of Closing (except that representations and warranties that are made as of a specific date need be true and correct only as of

such date and except that representations and warranties which are qualified as to materiality shall be true and correct in all respects as made and not subject to a double materiality standard), and Seller will have received a certificate to such effect dated the Closing Date and executed by a duly authorized officer of Buyer.

(b) ***Covenants***. The covenants and agreements of Buyer to be performed prior to Closing will have been duly performed in all material respects, and Seller will have received a certificate to such effect dated the Closing Date and executed by a duly authorized officer of Buyer.

(c) ***Payment***. Buyer will have caused the portion of the Purchase Price to be paid at Closing as provided by Section 2.6(a)(i).

(d) ***Legal Opinion of Buyer's Counsel***. On the Closing Date, Seller shall have received the opinion of Harter Secrest & Emery LLP, counsel to Buyer, in a form reasonably acceptable to Seller.

(e) ***Due Authorization***. Buyer and Acquisition Sub's execution, delivery performance of this Agreement and the Closing Documents and Buyer and Acquisition Sub's consummation of the Transaction will have been duly and validly authorized by all necessary corporate action on the part of Buyer and Acquisition Sub's board of directors.

(f) ***Required Approvals***. The Buyer will have obtained and delivered to Seller all approvals listed on Schedule 4.3, each in a form acceptable to Seller in its sole discretion.

(g) ***Additional Closing Deliveries***. Buyer will have delivered to Seller the following:

(i) such duly executed instruments of assumption and other instruments or documents, in form and substance reasonably acceptable to Seller, as may be necessary to effect the assumption by Buyer of the Assumed Liabilities;

(ii) duly executed Ancillary Agreements in substantially the form as attached hereto; and

(iii) a certificate signed by duly authorized officers of Buyer and dated the Closing Date certifying to Seller (A) as to the incumbency and genuineness of the signatures of each officer of Buyer executing this Agreement and any Closing Document on behalf of the Buyer, and (B) the genuineness of the resolutions (attached thereto) adopted by Buyer authorizing the execution, delivery and performance of the Agreement and the Closing Documents and the Buyer's consummation of the Transaction; and

(iv) such other instruments or documents, in form and substance reasonably acceptable to Seller, as may be necessary to effect Closing.

ARTICLE VII. INDEMNIFICATION

Section 7.1 Indemnification by Seller and Selling Shareholders.

Subject to the further provisions of this Article VII, each of Seller and each Selling Shareholder will jointly and severally indemnify, defend and hold harmless Buyer, Acquisition Sub, Buyer's Affiliates, and their respective directors, officers, attorneys, accountants, agents and employees and their heirs, successors and assigns (collectively, the "***Buyer Indemnified Parties***"), from, against and in respect of all Losses imposed on, sustained, incurred or suffered by or asserted against any of the Buyer Indemnified Parties, directly or indirectly relating to or arising out of any of the following (collectively, "***Buyer Losses***"*):*

(a) any fact or circumstance that constitutes a breach of any representation or warranty of Seller contained herein;

(b) any act or omission that constitutes a breach of any covenant or agreement of Seller contained herein;

(c) any Excluded Liability or any act or omission of Seller prior to Closing that constituted a breach of Seller's obligations under any Assumed Contract or that creates any other Liability to a third party;

(d) Any Claim of any kind by any holder of Seller securities or options to acquire Seller securities;

(e) Except for Assumed Liabilities, any Liability of Seller arising out of the Business or from the Transferred Assets or Hired Employees, that arose or arises on or before Closing or that is attributable to facts and circumstances arising on or before the Closing Date; or

(f) Except for Assumed Liabilities and except as provided in Section 5.9, any Liability of Seller with respect to any of Seller's Taxes for any period on, before or after the Closing.

Section 7.2 Indemnification by Buyer.

Subject to the further provisions of this Article VII, Buyer will indemnify, defend and hold harmless Seller, Selling Shareholders, Seller's Affiliates, and their respective directors, officers, attorneys, accountants, agents and employees), and their heirs, successors and assigns (collectively, the "***Seller Indemnified Parties***"), from, against and in respect of any Losses imposed on, sustained, incurred or suffered by or asserted against any of the Seller Indemnified Parties, directly or indirectly relating to or arising out of any of the following (collectively, "***Seller Losses***"*):*

(a) any fact or circumstance that constitutes a breach of any representation or warranty of Buyer contained herein;

(b) any act or omission that constitute a breach of any covenant or agreement of Buyer contained herein;

(c) any Assumed Liability, but only up to the amount of such Assumed Liability set forth on Schedule 2.5(a) or Schedule 2.5(b); or

(d) any Liability (other than an Excluded Liability) arising from the Transferred Assets or the Hired Employees that arises from and after the Closing Date and is attributable to facts and circumstances arising after the Closing Date.

Section 7.3 Right of Offset.

Seller agrees that any payments which may be due it from Buyer, whether under the Holdback Amount or Sales Payments, may be used by Buyer at its option, to satisfy any demands for indemnification asserted against Seller under Section 7.1, and that if so used by Buyer, such shall be and constitute a complete and absolute set-off against any such payments which may become due to Seller from Buyer. If the Buyer offsets the Sales Payments pursuant to this Section 7.3, then the value of the shares of Ultralife Common Stock underlying such Sales Payments shall equal the Volume Weighted Average Price on the date that the Buyer established its right to indemnification in accordance with the procedures of this Article VII. Notwithstanding the foregoing, Buyer shall not exercise its right of offset hereunder until Buyer has established its right to indemnification in accordance with the procedures of this Article VII.

Section 7.4 Indemnification Procedures.

(a) The Buyer Indemnified Parties' Claims for indemnification under this Article VII will be satisfied first by Buyer's exercise of the right of offset against the Holdback Amount or Sales Payments, as provided by Section 7.3 of this Agreement, except that Claims for indemnification arising from actions, suits or other legal proceedings commenced against an Indemnified Party by a third party will instead be resolved as provided by this Section 7.4.

(b) In the event that an Indemnified Party has a Claim for indemnification under this Article VII, or an action, suit or legal proceeding for which an Indemnifying Party would be liable to an Indemnified Party hereunder is commenced against an Indemnified Party by a third party, the Indemnified Party will (but in no event more than thirty (30) days following commencement of any such third party action, suit or other legal proceeding) notify the Indemnifying Party of such Claim and the amount or the estimated amount thereof to the extent then feasible (which estimate will not be conclusive of the final amount of such Claim) (the "***Claim Notice***"); provided, however, that no failure or delay by any Indemnified Party in giving any Claim Notice will relieve any Indemnifying Party from any obligation or liability under this Agreement, except to the extent that the Indemnifying Party is prejudiced by such failure or delay.

(c) The Indemnifying Party will have thirty (30) days from the effective date of the Claim Notice as determined under Section 9.1 of this Agreement (the "***Notice Period***") to notify the Indemnified Party (i) whether or not the Indemnifying Party disputes its liability to the Indemnified Party hereunder with respect to such Claim, and (ii) in the case of a litigated Claim, whether or not it desires to defend the Indemnified Party against such litigated Claim. All reasonable costs and expenses incurred by the Indemnifying Party in defending such litigated Claim and all reasonable costs and expenses of the Indemnified Party incurred prior to the Indemnifying Party assuming such defense will be a Liability of, and will be paid by, the Indemnifying Party.

(d) Except as provided in Section 7.4(e) of this Agreement, in the event that the Indemnifying Party notifies the Indemnified Party within the Notice Period that it desires to defend the Indemnified Party against a litigated Claim, the Indemnifying Party will have the right so to defend the Indemnified Party by appropriate proceedings with counsel of the Indemnifying Party's choosing, and will have the sole power to direct and control such defense. If any Indemnified Party desires to participate in any such defense it may do so at its sole cost and expense.

(e) If the Indemnifying Party elects not to defend the Indemnified Party against a litigated Claim, whether by not giving the Indemnified Party timely notice as provided by Section 7.4(c) of this Agreement or otherwise, then the Indemnified Party will have the right so to defend the litigated Claim by appropriate proceedings with counsel of the Indemnified Party's choosing, and will have the sole power to direct and control such defense. The portion of such litigated Claim as to which the defense by the Indemnified Party is unsuccessful (and the reasonable costs and expenses pertaining to the defense of the entire litigated Claim) will be the Liability of the Indemnifying Party hereunder. The Indemnified Party will use commercially reasonable efforts in the defense of all such litigated Claims subject to the limitations contained in Section 7.4(g) of this Agreement.

(f) Notwithstanding any other provision hereof to the contrary, the Buyer Indemnified Parties may assert against the Holdback Amount and Sales Payments its right of offset, in accordance with Section 7.3 of this Agreement, the following litigated Claims: (i) any litigated Claim against which Seller elects not to defend, as contemplated by Section 7.4(e) of this Agreement; and (ii) the portion of a litigated Claim defended by Seller as to which Seller's defense is unsuccessful.

(g) The Indemnified Party will not settle a litigated Claim without the consent of the Indemnifying Party, which consent will not be unreasonably withheld.

(h) The Indemnifying Party will not settle, compromise or offer to settle or compromise any litigated Claim on a basis that would result in the imposition of a consent order, injunction or decree that would restrict the future activity or conduct of the Indemnified Party or any Affiliate thereof without the consent of the Indemnified Party or any Affiliate thereof, which consent may be withheld for any reason.

(i) To the extent that the Indemnifying Party directs, controls or participates in the defense or settlement of any litigated Claim, the Indemnified Party will give the Indemnifying Party and its counsel, during normal business hours, access to the relevant business records and other documents, and will permit them to consult with the employees and counsel of the Indemnified Party.

(j) All amounts paid by Seller or Buyer, as the case may be, under this Article VII, and all offsets against the Holdback Amount and Sales Payments pursuant to Section 7.3 will be treated as adjustments to the Purchase Price for Tax purposes.

Section 7.5 Cap.

The maximum aggregate recovery of the Buyer Indemnified Parties and the Seller Indemnified Parties under this Article VII shall not exceed $1,000,000.

ARTICLE VIII. TERMINATION

Section 8.1 Termination.

This Agreement may be terminated at any time prior to Closing as follows:

(a) by mutual agreement of Buyer and Seller;

(b) by either Buyer or Seller if: (i) there is in effect any Law that prohibits or prevents Closing, (ii) if Closing would violate any order, decree or judgment of any Governmental Entity; or (iii) if any Governmental Entity issues any order, decree, judgment or ruling or otherwise attempts to prohibit or prevent the Closing or to modify the material terms of the Transaction;

(c) by Seller if, as a result of any action or inaction by Buyer or its Affiliates, Closing has not occurred within thirty (30) days following the date on which all of the conditions to Closing set forth in Section 6.1 and Section 6.2 have become capable of satisfaction (or have been waived);

(d) by Seller in the event Buyer has breached any material representation, warranty, or covenant contained in this Agreement in any material respect, and Seller has notified Buyer of the breach, and the breach has continued without cure for a period of 10 days after the notice of breach

(e) by Buyer if, as a result of any action or inaction by Seller or its Affiliates, Closing has not occurred within thirty (30) days following the date on which all of the conditions to Closing set forth in Section 6.1 and Section 6.3 have become capable of satisfaction (or have been waived);

(f) by Buyer in the event Seller has breached any material representation, warranty, or covenant contained in this Agreement in any material respect, and Buyer has notified Seller of the breach, and the breach has continued without cure for a period of 10 days after the notice of breach;

(g) by Buyer upon the occurrence of a Material Adverse Effect or any event, condition, change or circumstance that gives rise to a Material Adverse Effect: and

(h) by Buyer or Seller, by giving written notice of such termination to the other party, if Closing has not occurred on or prior to November 12, 2008; provided, however, that the party providing such notice is not in material breach of any of its obligations under this Agreement.

Section 8.2 Effect of Termination.

In the event of the termination of this Agreement, as provided by Section 8.1, this Agreement will thereupon become void and have no effect, and no party will have any Liability to any other party or their respective Affiliates, directors, officers or employees, except for the obligations of the parties contained in this Section 8.2 and in Section 5.6 (Confidentiality), Section 5.7 (Public Disclosure), Section 9.1 (Notices), Section 9.5 (Expenses), Section 9.7 (Governing Law), Section 9.8 (Submission to Jurisdiction), Section 9.9 (Alternative Dispute Resolution) and Section 9.14 (Entire

Agreement) (and any related definitional provisions set forth in Article I), and except that nothing in this Section 8.2 will relieve any party from Liability for any breach of this Agreement that arose prior to such termination, for which Liability the provisions of Article VII will remain in effect in accordance with the provisions and limitations thereof.

ARTICLE IX. MISCELLANEOUS

Section 9.1 Notices.

All notices or other communications given hereunder will be deemed to have been duly given and made if in writing and if served by personal delivery upon the party for whom it is intended, if delivered by registered or certified mail, return receipt requested, or by a nationally recognized, overnight courier service, or if sent by facsimile, provided that the facsimile is promptly confirmed by telephone confirmation thereof, to the party at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such party:

If to Buyer or Acquisition Sub:	Ultralife Corporation 2000 Technology Parkway Newark, New York 14513 Attention: General Counsel Fax: (315) 331-7048
with a copy to:	Harter Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, New York 14604-2711 Attention: Jeffrey H. Bowen, Esq. Fax: (585) 232-2152
If to Seller:	<u>before Closing:</u> U.S. Energy Systems, Inc. 6451 Box Springs Blvd. Riverside, California 92507 Attention: Ken Cotton Fax: (951) 567-7271 <u>after Closing:</u> 6451 Box Springs Blvd. Riverside, California 92507 Attention: Ken Cotton Fax: (951) 567-7271
in each case with a copy to:	Michael J. Kaminsky, Esq. Bouza, Klein & Kaminsky

950 S. Flower Street
Los Angeles, California 90015
Fax: (213) 488-1316

All such notices and other communications shall be deemed to have been given and received effective as of: (i) in the case of personal delivery, on the date of such delivery (ii) in the case of registered or certified mail, return receipt requested, on the third business day after such mail is postmarked; (iii) in the case of a nationally recognized, overnight courier service, on the business day following dispatch; or (iii) in the case of a facsimile, provided that the facsimile is promptly confirmed by telephone confirmation thereof, on the date of such delivery.

Section 9.2 Amendment; Waiver.

Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and signed, in the case of an amendment, by Buyer and Seller, or in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay by any party in exercising any right, power or privilege hereunder will operate as a waiver thereof nor will any single or partial exercise thereof preclude any other or further exercise of any right, power or privilege.

Section 9.3 No Assignment or Benefit to Third Parties.

No party may assign any of its rights or delegate any of its obligations under this Agreement, by operation of law or otherwise, without the prior written consent of the other party, and any attempt to assign this Agreement without such consent will be void and of no force or effect. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than Buyer, Acquisition Sub, Seller or the Indemnified Parties, or their respective permitted successors or permitted assigns, any rights or remedies under or by reason of this Agreement. Without limiting the generality of the foregoing, nothing in this Agreement creates any rights in any employees or groups of employees.

Section 9.4 Survival.

(a) Except for those representations and warranties of the Seller and Selling Shareholders contained in Section 3.1, Section 3.2, Section 3.3, Section 3.4, Section 3.5, Section 3.7, Section 3.19, Section 3.23 and Section 3.28 of this Agreement, all of the representations and warranties of the Seller and the Selling Shareholders contained in Article III of this Agreement, shall survive the Closing and continue in full force and effect for a period of two years from the Closing Date. This provision shall not extinguish claims that are made within two years of the Closing Date but that remain unresolved on or after the date that is two years after the Closing Date.

(b) All of the representations and warranties of the Seller and Selling Shareholders contained in Section 3.1, Section 3.2, Section 3.3, Section 3.4, Section 3.5, Section 3.7, Section 3.19, Section 3.23 and Section 3.28 of this Agreement shall survive the Closing and continue in full force and effect until the expiration of any applicable statutes of limitations (after giving effect to any extensions or waivers) plus 60 days.

(c) Except for those representations and warranties of the Buyer and Acquisition Sub contained in Section 4.1, Section 4.2, Section 4.3, Section 4.4 and Section 4.5 of this Agreement, all of the representations and warranties of the Seller and the Selling Shareholders contained in Article IV of this Agreement, shall survive the Closing and continue in full force and effect for a period of two years from the Closing Date. This provision shall not extinguish claims that are made within two years of the Closing Date but that remain unresolved on or after the date that is two years after the Closing Date.

(d) All of the representations and warranties of the Buyer and Acquisition Sub contained in Section 4.1, Section 4.2, Section 4.3, Section 4.4 and Section 4.5 of this Agreement shall survive the Closing and continue in full force and effect until the expiration of any applicable statutes of limitations (after giving effect to any extensions or waivers) plus 60 days.

(e) If notice of any claim for indemnification has been timely given, then such claim for indemnification, and the underlying representations, warranties, covenants or agreements, and the indemnification obligations that are the subject thereof, will survive until such time as such claim is finally resolved.

Section 9.5 Expenses.

Except as otherwise expressly provided in Article VII of this Agreement, whether or not the Transaction is consummated, all costs and expenses incurred in connection with this Agreement and the Transaction will be borne by the party incurring the same.

Section 9.6 Schedules, Exhibits, Etc.

(a) Each schedule, exhibit (when and as executed), certificate provided hereunder and written disclosure required hereby is incorporated by reference into this Agreement and will be considered a part hereof as if set forth herein in full; provided, however, that information set forth on any schedule, certification or written disclosure constitutes a representation and warranty of the party providing the same, and not the mutual agreement of the parties as to the facts therein stated. The contents of the schedules will not vary, change or alter the language or substance of the representations and warranties contained in this Agreement. Each Schedule is annexed hereto on the date hereof and, if Buyer consents, will be updated as necessary or amended on or before the Closing Date. Unless otherwise specifically noted herein, all schedules shall be deemed the sole responsibility, obligation, disclosure and work-product of Seller.

(b) No representation or warranty of Seller or the Selling Shareholders contained in this Agreement shall be affected or deemed waived or otherwise impaired or limited by reason of any investigation or due diligence conducted by Buyer or its representatives, except that no claim for indemnity under Article VII of this Agreement for a breach of a particular representation, warranty or covenant shall be made after the Closing if the Buyer had Knowledge before the Closing Date of any facts, events or circumstances that would cause the particular representation or warranty of Seller to be untrue.

Section 9.7 Governing Law.

This Agreement will be governed by and construed in accordance with the Laws of the State of New York without regard to its principles of conflicts of laws.

Section 9.8 Submission to Jurisdiction.

Each of the Parties submits to the jurisdiction of any state or federal court having jurisdiction in Wayne County, New York, in any action or proceeding arising out of or relating to this Agreement and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each Party also agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court. Each of the Parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety, or other security that might be required of any other Party with respect thereto. Each Party agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment or in any other manner provided by law or at equity.

Section 9.9 Alternate Dispute Resolution.

If any dispute arises between the Parties regarding this Agreement, any Closing Document or the Transaction (other than a dispute relating to Intellectual Property which the parties reserve all rights to litigate, or otherwise address as they may agree at the time such dispute arises), John D. Kavazanjian, on behalf of Buyer, and Ken Cotton, on behalf of Seller, or their respective designees, will attempt in good faith to resolve the dispute. They will meet, in person or by other means mutually satisfactory to them, to attempt to resolve the dispute within fifteen (15) days after reference of the matter to them. If they reach a decision within such fifteen (15) day period, their decision will be final and binding on the parties for all purposes. If they fail to resolve the dispute within such period, Buyer and Seller may, if they then so agree, refer the matter for arbitration on such terms as they may then agree or, failing that, proceed to litigation.

Section 9.10 Specific Performance.

Each Party acknowledges and agrees that the other Parties would be damaged irreparably in the event any provision of this Agreement is not performed in accordance with its specific terms or otherwise is breached, so that a Party shall be entitled to injunctive relief to prevent breaches of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in addition to any other remedy to which such Party may be entitled, at law or in equity. In particular, the Parties acknowledge that the business of Seller is unique and recognize and affirm that in the event Seller breaches this Agreement, money damages would be inadequate and Buyer would have no adequate remedy at law, so that Buyer shall have the right, in addition to any other rights and remedies existing in its favor, to enforce its rights and the other Parties' obligations hereunder not only by action for damages but also by action for specific performance, injunctive, and/or other equitable relief.

Section 9.11 Remedies Cumulative.

The various rights and remedies herein provided will be cumulative and not exclusive of any other rights or remedies herein provided or any rights or remedies provided by Law.

Section 9.12 Inferences.

Inasmuch as this Agreement is the result of negotiations between sophisticated parties of equal bargaining power represented by counsel, no inference in favor of or against either party will be drawn from the fact that any portion of this Agreement has been drafted by or on behalf of such party.

Section 9.13 Severability.

The provisions of this Agreement will be deemed severable and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision will be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances will not be affected by such invalidity or unenforceability, nor will such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

Section 9.14 Entire Agreement.

This Agreement, including the Exhibits, the Schedules, the Ancillary Agreements and the other Closing Documents contain the entire agreement between the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, oral or written, with respect to such matters.

Section 9.15 Headings.

The heading references herein and any tables of contents, indexes or similar items hereto are for convenience purposes only, do not constitute a part of this Agreement, and will not be deemed to limit or affect any of the provisions hereof.

Section 9.16 Counterparts.

This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and all of which will constitute one and the same Agreement.

Section 9.17 Facsimiles.

The parties agree that facsimile copies of signatures shall be deemed originals for all purposes hereof and that a party may produce such copies, without the need to produce original signatures, to prove the existence of this Agreement in any proceeding brought hereunder.

[*The signatures of the parties appear on the next page*.]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first above written.

BUYER:

Ultralife Corporation

/s/ Phil A. Fain
Signature

Phil A. Fain
Print Name

Vice President Business Development
Title

SELLER:

U.S. Energy Systems, Inc.

/s/ Ken Cotton
Signature

Ken Cotton
Print Name

President
Title

ACQUISITION SUB:

STATIONARY POWER SERVICES, INC.

/s/ Robert W. Fishback
Signature

Robert W. Fishback
Print Name

Treasurer
Title

SELLING SHAREHOLDERS

/s/ Ken Cotton
Ken Cotton

/s/ Shawn O’Connell
Shawn O’Connell

/s/ Simon Baitler
Simon Baitler

[*Signature Page to Asset Purchase Agreement*]

Exhibit 10.35

ASSET PURCHASE AGREEMENT

by and among

U.S. POWER SERVICES, INC.,

KEN COTTON, SHAWN O’CONNELL,
SIMON BAITLER

And

ULTRALIFE CORPORATION

and

STATIONARY POWER SERVICES, INC.

October 31, 2008

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ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made as of October 31, 2008 by and among U.S. Power Services, Inc., a California corporation ("***Seller***"), Ken Cotton, Shawn O'Connell and Simon Baitler (together the "***Selling Shareholders***") and Ultralife Corporation, a Delaware corporation ("***Buyer***") and Stationary Power Services, Inc., a Florida corporation ("***Acquisition Sub***"). Buyer, Seller, the Selling Shareholders and Acquisition Sub are referred to collectively herein as the "***Parties***."

Recitals

Seller is engaged in the business of designing, developing, installing and maintaining backup power systems for sale to a variety of commercial customers (the "***Business***").

The parties desire that Seller sell, transfer, assign and license certain assets to Acquisition Sub, and that Acquisition Sub purchase, license and assume from Seller certain specified liabilities related to the Business, all as more specifically provided herein.

NOW, THEREFORE, in consideration of the premises and the mutual representations, warranties, covenants and undertakings contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I. DEFINITIONS

Section 1.1 Certain Definitions.

The following terms will, when used in this Agreement, have the following respective meanings:

"***Acquisition Sub***" has the meaning set forth in the Preface above.

"***Affiliate***" means, with respect to a Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person at any time during the period for which the determination of affiliation is being made. For purposes of this definition, the term "***control***" means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of management policies of such Person, whether through the ownership of voting securities or by contract.

"***Agreement***" means this Asset Purchase Agreement, as the same may be amended or supplemented from time to time in accordance with the terms hereof, together with the exhibits and schedules thereto.

"***Applicable Employees***" has the meaning set forth in Section 5.15(a)(ii) of this Agreement.

"***Approvals***" means, collectively, the consents, approvals, waivers, authorizations, novations, notices and filings required in connection with the consummation of the Agreement and the Transaction (or any portion of the Transaction), which are listed on Schedule 1.1.

"***Assumed Contracts***" has the meaning set forth in Section 2.1(e) of this Agreement.

"***Assumed Liabilities***" has the meaning set forth in Section 2.5 of this Agreement.

"***Assumed License Agreements***" has the meaning set forth in Section 2.1(e)(i)of this Agreement.

"***Benefit Plans***" has the meaning set forth in Section 3.21(a) of this Agreement.

"***Books and Records***" means books, ledgers, files (including personnel files), reports, operating records, accounting records, price lists, correspondence and other forms of information, in any form or medium, relating in any manner to the Business, operations or financial or statistical history of Seller.

"***Business***" has the meaning set forth in the Recitals above.

"***Buyer***" has the meaning set forth in the Preface above.

"***Buyer Indemnified Parties***" has the meaning set forth in Section 7.1 of this Agreement.

"***Buyer Losses***" has the meaning set forth in Section 7.1 of this Agreement.

"***Claim***" means any pending or threatened contest, claim, charge, demand, assessment, action, cause of action, complaint, litigation, proceeding, hearing or notice involving Seller.

"***Claim Notice***" has the meaning set forth in Section 7.4(b) of this Agreement.

"***Closing***" means the closing and consummation of the Transaction.

"***Closing Date***" has the meaning set forth in Section 2.7 of this Agreement.

"***Closing Documents***" means: (a) with respect to Seller, all agreements, documents and instruments required to be delivered by Seller at Closing, as set forth in Section 6.2; and (b) with respect to Buyer and Acquisition Sub, all agreements, documents and instruments required to be delivered by Buyer and Acquisition Sub at Closing, as set forth in Section 6.3.

"***Code***" means the Internal Revenue Code of 1986, as amended and all Treasury Regulations promulgated thereunder.

"***Confidentiality Agreement***" means that certain Confidentiality, Non-Compete and Non-Disparagement Agreement by and between Buyer and the Selling Shareholders.

"***Confidential Information***" means any information concerning the businesses and affairs of the Seller or Buyer, as the context requires, or any of their Affiliates, that is not already generally available to the public.

"***Copyrights***" has the meaning set forth in Section 2.1(c)(iv) of this Agreement.

"***Disclosing Party***" has the meaning set forth in Section 5.6(a) of this Agreement.

“***Employment Laws***” has the meaning set forth in Section 3.20 of this Agreement.

“***Encumbrances***” means liens, charges, encumbrances, security interests, options or any other restrictions or third party rights.

“***Environmental Law***” means, collectively, all federal, state and local statutes, common law, authorizations, regulations, ordinances, codes, published guidelines and policies, directives, judgments, injunctions, decrees and orders (including all amendments thereto) pertaining to environmental matters including but not limited to: (A) the protection, investigation or restoration of the environment, health, safety or natural resources, (B) the handling, use, presence, disposal, release or threatened release of any Hazardous Substance, or (C) air, indoor air, noise, employee exposure, water vapor, surface water, groundwater, soil, natural resources, chemical use, health, safety and sanitation, or threat of injury to persons or property relating to any Hazardous Substance. Without limiting the generality of the foregoing, “***Environmental Laws***” include the Comprehensive Environmental Response, Compensation and Liability Act, the Medical Waste Tracking Act, the Resource Conservation and Recovery Act, the Clean Air Act, the Federal Water Pollution Control Act, the Safe Water Drinking Act, the Toxic Substance Control Act and the Occupational Safety and Health Act.

“***ERISA***” means the Employee Retirement Income Security Act of 1974, as amended.

“***Excluded Assets***” has the meaning set forth in Section 2.2 of this Agreement.

“***Excluded Liabilities***” has the meaning set forth in Section 2.3 of this Agreement.

“***Financial Statements***” has the meaning set forth in Section 3.6 of this Agreement.

“***GAAP***” means generally accepted accounting principles, methods and practices set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants, and statements and pronouncements of the Financial Accounting Standards Board, the Securities and Exchange Commission or of such other Person as may be approved by a significant segment of the U.S. accounting profession, in each case as of the date or period at issue, and as applied in the U.S. to U.S. companies.

“***Governmental Authorizations***” means all licenses, permits, certificates and other authorizations and approvals of any Governmental Entity required under any Law to carry on the Business as currently conducted or anticipated in the Ordinary Course.

“***Governmental Entity***” means any U.S. or non-U.S. local, state, federal or other government, including each of their respective branches, departments, agencies, courts, instrumentalities or other subdivisions.

“***Hazardous Substance***” means and includes: (a) any hazardous materials, hazardous wastes, hazardous substances and toxic substances as those or similar items are defined under any Environmental Law; (b) any asbestos or any material that contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite and/or actinolite, whether friable or non-friable; (c) any polychlorinated biphenyls or polychlorinated biphenyl-containing materials or fluids; (d) radon; (e) any other hazardous, explosive, flammable, infectious, carcinogenic, mutagenic,

radioactive, toxic or noxious substance, material, pollutant, contaminant or solid, liquid or gaseous waste; (f) any petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, natural gas or synthetic gas; and (h) any substance that, whether by its nature or its use, is or becomes subject to regulation under any Environmental Laws or with respect to which any Environmental Laws or Governmental Entity requires or will require environmental investigation, monitoring or remediation.

"***Hired Employees***" is defined in Section 5.15(a)(ii) of this Agreement.

"***Holdback Amount***" has the meaning set forth in Section 2.6(a)(ii) of this Agreement.

"***Improvements***" has the meaning set forth in Section 3.22(d) of this Agreement.

"***Indemnified Parties***" means, as appropriate in the context, either the Buyer Indemnified Parties or the Seller Indemnified Parties, which terms are defined in Article VII.

"***Intellectual Property***" means all of the following: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, trade dress, logos, slogans, trade names, corporate names, Internet domain names and rights in telephone numbers, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all mask works and all applications, registrations, and renewals in connection therewith, (e) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (f) all computer software (including source code, executable code, data, databases, and related documentation), (g) all advertising and promotional materials, (h) all other proprietary rights, and (i) all copies and tangible embodiments thereof (in whatever form or medium).

"***Inventory***" has the meaning set forth in Section 2.1(j) of this Agreement.

"***Knowledge***" means (i) with respect to any natural person, the actual knowledge, of such person, or (ii) with respect to any corporation or entity, the actual knowledge of such party's officers provided that such persons shall have made due and diligent inquiry of those employees and directors of such party whom such officers reasonably believe would have actual knowledge of the matters represented.

"***Law***" means any applicable law (including common law), statute, ordinance, rule, regulation, code, order, judgment, injunction, decree or judicial or administrative doctrine that is promulgated or issued by any Governmental Entity.

"***Leases***" means all leases, subleases, licenses, concessions and other agreements (written or oral), including all amendments, extensions, renewals, guaranties, and other agreements with respect

thereto, pursuant to which Seller holds any Leased Real Property, including the right to all security deposits and other amounts and instruments deposited by or on behalf of Seller thereunder.

"***Leased Real Property***" has the meaning set forth in Section 2.1(a) of this Agreement.

"***Leased Real Property Permits***" has the meaning set forth in Section 3.22(g) of this Agreement.

"***Liability***" means any direct or indirect indebtedness, liability, Claim, damage, deficiency, obligation or responsibility, fixed or unfixed, choate or inchoate, liquidated or unliquidated, secured or unsecured, accrued, absolute, contingent or otherwise.

"***Losses***" means Liabilities, losses, interest, penalties and reasonable costs and expenses associated therewith (including attorneys' fees, litigation costs, fines, penalties and expenses of investigation), whether asserted by a party to this Agreement or by a third party, but in no event includes incidental or consequential damages**.**

"***Material Adverse Effect***" means a material adverse effect on the condition (financial or otherwise), results of operations or assets of the Business or on Seller's ability to perform its obligations under this Agreement.

"***Most Recent Fiscal Year End***" has the meaning set forth in Section 3.6 of this Agreement.

"***No Shop Period***" has the meaning set forth in Section 5.5(a) of this Agreement.

"***Ordinary Course***" means the ordinary course of business of the Business, consistent with past practices.

"***Patents***" has the meaning set forth in Section 2.1(c)(ii) of this Agreement.

"***Parties***" has the meaning set forth in the Preface of this Agreement.

"***Permitted Encumbrances***" means Encumbrances that secure or constitute an Assumed Liability that is recorded on the Books and Records of Seller as of the Closing Date.

"***Person***" means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization.

"***Personal Property***" has the meaning set forth in Section 2.1(b) of this Agreement.

"***Plans***" has the meaning set forth in Section 3.21(a) of this Agreement.

"***Products***" has the meaning set forth in Section 2.1(d) of this Agreement.

"***Purchase Price***" has the meaning set forth in Section 2.6(a) of this Agreement.

"***Purchase Transaction***" has the meaning set forth in Section 5.5(b) of this Agreement.

"***Receiving Party***" has the meaning set forth in Section 5.6(a) of this Agreement.

"***Seller***" has the meaning set forth in the Preface above.

"***Seller Indemnified Parties***" has the meaning set forth in Section 7.2 of this Agreement.

"***Seller Losses***" has the meaning set forth in Section 7.2 of this Agreement.

"***Selling Shareholders***" has the meaning set forth in the Preface above.

"***Software***" has the meaning set forth in Section 2.1(c)(i) of this Agreement.

"***Subsidiary***" means any Person, fifty percent (50%) or more of the outstanding equity interests of which are owned, directly or indirectly, by Seller.

"***Taxes***" means all taxes levied or imposed by any Governmental Entity, including income, gross receipts, windfall profits, value added, severance, production, sales, use, license, excise, franchise, employment, environmental, real property, personal property, transfer, alternative minimum, estimated, withholding or other taxes, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties, whether or not disputed or contested.

"***Tax Returns***" means all U.S. and non-U.S. reports and returns required to be filed with respect to Taxes, including all attachments thereto.

"***Technical Documentation***" means all technical and descriptive materials in all media (other than Inventory) relating to the acquisition, design, development, use or maintenance of Intellectual Property or the Products, including any compilers, tools, libraries, debuggers and higher level or proprietary language**.**

"***Trademarks***" has the meaning set forth in Section 2.1(c)(iii) of this Agreement.

"***Transaction***" means, collectively, the purchase and sale of the Transferred Assets, the assumption of the Assumed Liabilities and the execution and delivery of the Closing Documents and the other transactions, all as herein provided.

"***Transferred Assets***" has the meaning set forth in Section 2.1 of this Agreement.

"***Transferred Intellectual Property***" has the meaning set forth in Section 2.1(c) of this Agreement.

Section 1.2 Interpretation.

In this Agreement, unless the express context otherwise requires:

(a) the words "*herein*," "*hereof*" and "*hereunder*" and words of similar import refer to this Agreement as a whole and not to any particular provision of this Agreement;

(b) references to "*Article*" or "*Section*" are to the respective Articles and Sections of this Agreement, and references to "*Exhibit*" or "*Schedule*" are to the respective Exhibits and Schedules annexed hereto;

(c) references to a "*party*" mean a party to this Agreement and include references to such party's permitted successors and permitted assigns;

(d) references to a "*third party*" mean a Person not a party to this Agreement;

(e) the terms "*dollars*" and "*$*"means U.S. dollars;

(f) terms defined in the singular have a comparable meaning when used in the plural, and vice versa;

(g) the masculine pronoun includes the feminine and the neuter, and vice versa, as appropriate in the context; and

(h) wherever the word "*include*," "*includes*" or "*including*" is used in this Agreement, it will be deemed to be followed by the words "without limitation."

Section 1.3 Accounting Conventions.

Except as expressly provided otherwise herein, all references in this Agreement to financial terms will be deemed to refer to such terms as they are defined under GAAP, consistently applied.

ARTICLE II. PURCHASE AND SALE

Section 2.1 Purchase and Sale of Assets.

On the terms and subject to the conditions set forth herein, at Closing, Seller will sell, convey, transfer, assign and deliver to Acquisition Sub, and Acquisition Sub will purchase from Seller, all of Seller's right, title and interest in and to the following listed assets owned by Seller at the Closing Date that are used or useful in, related to or arise out of the Business (except for those assets that are defined in Section 2.2 as Excluded Assets), in each case free and clear of all liens, mortgages, pledges, encumbrances, security interests, charges or other interests of other persons of every kind whatsoever, except for Permitted Encumbrances (collectively, the "***Transferred Assets***"):

(a) all leasehold or subleasehold estates and other rights to use or occupy any land, buildings, structures, improvements, fixtures, or other interest in real property held by Seller, which are listed on Schedule 2.1(a) (collectively, the "***Leased Real Property***");

(b) all tangible personal property, whether owned or leased by Seller, including all machinery, equipment, inventories of raw materials and supplies, manufactured and purchased parts, goods in process and finished goods, furniture, automobiles, trucks, tractors, trailers and tools, including all such personal property listed on Schedule 2.1(b) (collectively, the "***Personal Property***");

(c) all Intellectual Property, including the following (collectively, the "***Transferred Intellectual Property***")

(i) all source code, object code, design documentation and procedures for product generation and testing of all computer software and firmware, including that listed on

Schedule 2.1(c)(i) and including the software rules and algorithms, flowcharts, trade secrets, know-how, inventions, patents, copyrights, designs, technical processes, works of authorship, Technical Documentation, included in or relating to the same (collectively, the "***Software***");

(ii) all patents and patent applications, including those listed on Schedule 2.1(c)(ii), together with any division, continuation, continuation-in-part, continuing prosecution application, continued examination application, reinstatement, reexamination, revival, reissue, extension or substitution of any thereof, and corresponding foreign applications, patents and rights thereto, including, in all cases, the right to sue for past infringement thereof and to collect any past or future royalties or other payments in connection therewith (collectively, the "***Patents***");

(iii) all trademarks, service marks, trade names, all corporate names, trade dress, product names, slogans and logos, including those listed on Schedule 2.1(c)(iii), and corresponding foreign applications, marks and rights thereto, including, in all cases, the right to sue for past infringement thereof and to collect any past or future royalties or other payments in connection therewith (collectively, the "***Trademarks***");

(iv) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith, including those listed on Schedule 2.1(c)(iv), and foreign applications, in all cases, the right to sue for past infringement thereof and to collect any past or future royalties or other payments in connection therewith (collectively, the "***Copyrights***");

(v) all product development projects**,** including those listed on Schedule 2.1(d)***;***

(vi) all Internet, intranet and World Wide Web content, sites, domain names and pages, and all HTML and other code related thereto, including those listed on Schedule 2.1(c)(vi); and

(vii) all schematics, engineering drawings, specifications, and process work instructions in whatever form or medium;

(d) all products related to or incorporating any Intellectual Property, including those listed on Schedule 2.1(d) and including all proposed or unimplemented developments or improvements thereof, and the trade secrets, know-how, inventions, patents, copyrights, mask works, designs, technical processes, works of authorship and technical data included in or relating to the same (the "***Products***");

(e) only the following contracts and instruments, and no others (collectively, the "***Assumed Contracts***"):

(i) those contracts, agreements, licenses (whether granted to or by a third party) and other commitments and arrangements, oral or written, with any Person respecting the ownership, license, acquisition, design, development, distribution, marketing, use, maintenance, support or enhancement of Intellectual Property, related technical or user documentation or databases (including royalty, work-for-hire, consulting, employment, dealership and franchise agreements), which are listed on Schedule 2.1(e)(i) (the "***Assumed License Agreements***");

(ii) those other agreements, contracts, subcontracts, leases and subleases of personal property, arrangements, commitments, licenses and sublicenses, with customers, suppliers, resellers, distributors, current, former or prospective employees, employee groups, or other third parties, which are listed on Schedule 2.1(e)(ii); and

(iii) all leases involving the Leased Real Property.

(f) all customer lists and documentation (in all media) relating to the customers of the Business;

(g) all Books and Records, and all proprietary and non-proprietary business information, including marketing and sales materials and publications, product literature, reports, plans, records, pricing, cost and other manuals, advertising materials, catalogues, sales, service and maintenance records, and training materials;

(h) to the extent their transfer is permitted by Law, all Governmental Authorizations which are required for the conduct of the Business, and all applications therefore, including those that are listed on Schedule 2.1(h);

(i) all Claims that Seller may have against any Person relating to or arising out of any Transferred Asset or any Hired Employee, including rights to recover damages, settlements, rights to refunds, Claims for compensation or benefits, insurance Claims, Claims of infringement or past infringement of any Intellectual Property rights and royalty or similar rights related to any Transferred Intellectual Property, including those that are listed on Schedule 2.1(i);

(j) all inventories of (i) Products; (ii) computer program code (in all media) and materials; (iii) program documentation, including user materials; and (iv) raw materials and supplies, manufactured and purchased parts, goods in process, and finished goods, including the inventory listed on Schedule 2.1(j) (the "***Inventory***");

(k) any other assets, if any, that are listed on Schedule 2.1(k); and

(l) all goodwill of the Business associated with the foregoing enumerated Transferred Assets.

Section 2.2 Excluded Assets.

Notwithstanding anything herein to the contrary, from and after Closing, Seller will retain all of its existing right, title and interest in and to, and there will be excluded from the sale, conveyance, assignment or transfer to Acquisition Sub hereunder, and the Transferred Assets will not include, the following, in each case as the same exists on the Closing Date (collectively, the "***Excluded Assets***"):

(a) all other agreements, instruments, contracts, subcontracts, leases, subleases, arrangements, commitments, licenses, sublicenses and independent contractor agreements, written or oral, and sales representative agreements, written or oral, that are not Assumed Contracts;

(b) all employee compensation, retirement, pension, severance, deferred compensation, health, welfare or benefit plans and programs, and all funds and accounts held thereunder;

(c) all real property, including land, buildings, structures and improvements thereon, appurtenances thereto and interests therein and all fixtures constituting part of such real property;

(d) all accounts receivable;

(e) all notes receivable;

(f) all cash and cash equivalents, including amount on deposits in bank accounts;

(g) all refunds, overpayments and prepayments of Taxes and duties paid by Seller,

(h) all Tax Returns of Seller and all other Books and Records related thereto;

(i) all corporate minute books and stock records of Seller and all other Books and Records related thereto;

(j) the capital stock of any Subsidiary; and

(k) the assets, if any, that are set forth on Schedule 2.2(k).

Section 2.3 Inability to Assign Assumed Contracts.

(a) Notwithstanding anything to the contrary contained in this Agreement or in any Closing Document, to the extent that the assignment or attempted assignment to Acquisition Sub of any Assumed Contract, or any Claim, right or benefit arising thereunder or resulting therefrom, is prohibited by any Law, or would require any consent, approval, waiver, authorization or novation by a Governmental Entity or a Person and such consent, approval, waiver, authorization or novation has not been obtained prior to Closing and in a form acceptable to Acquisition Sub in its sole discretion, or with respect to which any attempted assignment would be ineffective or would materially adversely affect the rights of Seller or Acquisition Sub thereunder, then this Agreement will not constitute an assignment or attempted assignment thereof, and the same will not be assigned at Closing.

(b) Both prior and subsequent to Closing, the parties will use commercially reasonable efforts, and cooperate with each other, to obtain promptly all consents, approvals, waivers, authorizations or novations, including all Approvals, for the Assumed Contracts on terms acceptable to Buyer and Acquisition Sub in its sole discretion. Buyer will bear and pay the cost of all filing, recordation and similar fees and Taxes incurred after the date hereof and payable to Governmental Entities in connection with assignment of the Assumed Contracts, and any additional fees or charges (howsoever denominated) required by any Persons in connection with the assignment of any Assumed Contract or obtaining any consent, approval, waiver, authorization or novation, including any Approval.

(c) If any consent, approval, waiver, authorization or novation, including any Approval, which is necessary for the effective assignment to Acquisition Sub of any Assumed Contract, cannot be obtained or made and, as a result, the full benefits of use of such Assumed Contract cannot be provided to Acquisition Sub following Closing otherwise in accordance with this Agreement, then Seller will use its best efforts to provide Acquisition Sub the economic and operational equivalent, to the extent permitted, of obtaining or making such consent, approval, waiver, authorization or novation, as the case may be, and to permit Acquisition Sub to perform Seller's obligations and enforce Seller's rights under such Assumed Contract as if such Assumed Contracts had been sold, conveyed, assigned and delivered to Acquisition Sub, including (i) enforcing, at the Acquisition Sub's request and at the expense of Seller, any rights of Seller arising with respect thereto, including the right to terminate in accordance with the terms thereof upon the advice of Acquisition Sub and (ii) permitting Acquisition Sub to enforce any rights arising with respect thereto. Seller will pay to Acquisition Sub, when received, all income, proceeds and other monies received by Seller from third parties to the extent related to Acquisition Sub's intended rights under any Assumed Contract, as contemplated by this Section 2.3(c). Once any such consent, approval, waiver, authorization or novation is obtained or made in a form acceptable to Acquisition Sub in its sole discretion, Seller will assign such Assumed Contract to Acquisition Sub at no additional cost. Any expenses incurred by Seller, and any reasonable expenses incurred by Acquisition Sub, in connection with the arrangements contemplated by this Section 2.3(c) will be borne by Seller.

(d) The provisions of this Section 2.3 shall not affect the right of the Buyer and Acquisition Sub to elect not to consummate the Transaction contemplated by this Agreement if the conditions to its obligations hereunder contained in Article VI hereof have not been otherwise fulfilled.

Section 2.4 Excluded Liabilities.

It is expressly understood and agreed that neither Buyer or Acquisition Sub, nor any of their Affiliates, will assume, nor will any of them be liable for, any Liability of Seller, any Seller Subsidiary, any Affiliate of Seller or the Business, of any kind or nature, at any time existing or asserted, howsoever arising, whether or not accrued, whether fixed, contingent or otherwise, whether known or unknown, liquidated or unliquidated, due or to become due, and whether or not recorded on the Books and Records of Seller, unless such Liability is expressly within the definition of Assumed Liabilities under Section 2.5. All Liabilities that are not expressly within the definition of Assumed Liabilities under Section 2.5 are referred to collectively as the "***Excluded Liabilities***."

Section 2.5 Assumption of Certain Liabilities.

On the terms and subject to the conditions set forth herein, Acquisition Sub will assume and agree to satisfy and discharge or perform when due only the following Liabilities of Seller (and no others) (collectively, the "***Assumed Liabilities***"):

(a) all Liabilities identified on Schedule 2.5(a), including the amount of such Liabilities as of the Closing Date, arising under the Assumed Contracts, excluding all warranty obligations of Seller under the Assumed Contracts for products sold and services rendered prior to

Closing, to the extent that the rights and benefits of Seller thereunder are effectively transferred or assigned to Acquisition Sub, or novated for the benefit of Acquisition Sub; and

(b) all Liabilities identified on Schedule 2.5(b), including the amount of such Liabilities as of the Closing Date, that arise out of or relate to the Transferred Assets (other that the Assumed Contracts) to the extent such Liabilities are attributable to occurrences and circumstances arising after Closing.

Section 2.6 Purchase Price.

(a) On the terms and subject to the conditions set forth in this Agreement, and subject to adjustment, if any, as provided by Section 2.6(a)(ii), the purchase price for the Transferred Assets that Buyer will pay to Seller is One Million Eight Hundred Sixty Thousand Dollars ($1,860,000) (the "***Purchase Price***"). The Purchase Price will be paid as follows:

(i) On the terms and subject to the conditions set forth in this Agreement, at Closing, Buyer shall pay to Seller by wire transfer of immediately-available funds in the amount of One Million Eight Hundred Ten Thousand and no/100 Dollars ($1,810,000);

(ii) On the terms and subject to the conditions set forth in this Agreement, including Buyer's right of offset pursuant to Section 7.3, and following the notice and cure provisions of Section 7.4, six months from the Closing Date Buyer shall pay to Seller by wire transfer of immediately-available funds in the amount of Fifty Thousand and no/100 Dollars ($50,000) (the "***Holdback Amount***") provided that the Seller and no Selling Shareholder has violated any material terms of this Agreement or the Closing Documents and further provided that Buyer does not have the right to offset the Holdback Amount pursuant to Section 7.3. Subject to the notice and cure provisions of Section 7.4, if the Buyer in good faith determines that Seller or any of the Selling Shareholders has violated any material terms of this Agreement, then Buyer will not have to pay Seller the Holdback Amount portion of the Purchase Price.

Section 2.7 Closing.

The closing of the transactions contemplated by this Agreement (the "***Closing***") shall take place at the offices of Harter Secrest & Emery LLP, in Rochester, New York, commencing at 10:00 a.m. local time on the second business day following the satisfaction or waiver of all conditions to the obligations of the Parties to consummate the transactions contemplated hereby (other than conditions with respect to actions the respective Parties will take at the Closing itself) or such other date as Buyer and Seller may mutually determine (the "***Closing Date***"); provided, however, that the Closing Date shall be no later than November 12, 2008. The required deliveries at Closing are set forth in Article VII.

ARTICLE III. REPRESENTATIONS AND WARRANTIES OF SELLER AND SELLING SHAREHOLDERS

As of the date hereof and (except as otherwise expressly stated herein) as of the Closing, each of the Seller, and each Selling Shareholder, jointly and severally, represents and warrants to Buyer as follows:

Section 3.1 Organization and Power; Stock Ownership.

Seller is a corporation duly organized, validly existing and in good standing under the Laws of the State of California. Seller has all requisite corporate power and authority to enter into this Agreement and the Closing Documents, to perform its obligations hereunder and thereunder, to own, lease, operate and transfer the Transferred Assets, and to carry on the Business as now being conducted. Seller is duly qualified to do business and is in good standing as a foreign corporation in each jurisdiction where its ownership or operation of the Transferred Assets or its conduct of the Business requires such qualification, which jurisdictions are listed on Schedule 3.1.

Section 3.2 Authorization.

Seller has full corporate power and authority to execute and deliver this Agreement and each Closing Document and to perform its obligations hereunder and thereunder. The execution, delivery and performance by Seller of this Agreement and each Closing Document have been duly and validly authorized by Seller's board of directors and, if necessary, its shareholders.

Section 3.3 Approvals.

Except for the Approvals, no consent, approval, waiver, authorization or novation is required to be obtained by Seller and no notice or filing is required to be given by Seller to, or made by Seller with, any Governmental Entity or other Person in connection with the execution, delivery and performance by Seller of this Agreement and each Closing Document and the consummation of the Transaction.

Section 3.4 Non-Contravention.

The execution, delivery and performance by Seller of this Agreement and each Closing Document, and the consummation of the Transaction, do not and will not: (a) violate any provision of the certificate of incorporation, bylaws, or other organizational documents of Seller; (b) assuming the receipt or making of all Approvals, conflict with, or result in the breach of, or constitute a default under, or result in the termination, cancellation or acceleration (whether after the filing of notice or the lapse of time or both) of any right or obligation of Seller under, or a loss of any benefit to which Seller is entitled under, any Assumed Contract or any contract to which Seller is a party, or result in the creation of any Encumbrance (other than a Permitted Encumbrance) upon any of the Transferred Assets; or (c) assuming the receipt or making of all Approvals, violate or result in a breach of or constitute a default under any Law, judgment, injunction, order, decree or other restriction of any Governmental Entity to which Seller is subject.

Section 3.5 Binding Effect.

This Agreement and each Closing Document, when executed and delivered by Buyer, Acquisition Sub and Seller, will constitute valid and legally binding obligations of Seller, enforceable against it in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

Section 3.6 Financial Statements.

Attached as Schedule 3.6 are the following financial statements (collectively the "***Financial Statements***"): an unaudited balance sheet and profit and loss statement as of and for the fiscal year ended June 30, 2008 (the "***Most Recent Fiscal Year End***") for Seller. The Financial Statements are true, correct and complete in all material respects, are consistent with Seller's Books and Records (which Books and Records are correct and complete) applied on a consistent basis throughout the periods covered thereby, present fairly the financial condition of Seller as of such dates and the results of operations of Seller for such periods.

Section 3.7 Title.

With respect to all of the Transferred Assets, Seller has and will have at Closing: (i) good title to all tangible property included in the Transferred Assets, free and clear of all Encumbrances except for Permitted Encumbrances; and (ii) all right, title and interest in and to all intangible property included in the Transferred Assets, free and clear of all Encumbrances except for Permitted Encumbrances and, in the case of the Assumed Contracts, subject to the rights of third parties thereunder. Seller will effectively transfer such title to all of the Transferred Assets to Buyer at Closing.

Section 3.8 Transferred Assets.

(a) The Transferred Assets, when taken together with the Excluded Assets, constitute all properties, assets and leasehold estates, real, personal and mixed, tangible and intangible, comprising, used or useful in the operation of the Business on the date hereof and immediately prior to Closing.

(b) Except as set forth in Schedule 3.8(b), those Transferred Assets that are tangible and are presently being used by Seller for manufacturing Products, are free from defects (patent and latent), have been maintained in accordance with normal industry practice, are in good operating condition and repair (subject to normal wear and tear), and are suitable for the purposes for which they are presently used and proposed to be used.

(c) All of the Inventory is good and marketable and, except as set forth in Schedule 3.8(c), all of the Software and Products included in the Inventory are the respective current versions thereof.

Section 3.9 Compliance With Laws.

(a) The Business has been and is being conducted in compliance with all Laws, except for any non-compliance that would not, individually or in the aggregate have a Material Adverse Effect. The Seller has all Governmental Authorizations necessary for the conduct of the Business as currently conducted, except for those Governmental Authorizations the absence of which would not, individually or in the aggregate, have a Material Adverse Effect.

(b) To Seller's Knowledge, each of the premises of the Business conforms to and complies with all covenants, conditions, restrictions, reservations, land use, zoning, health, fire, water and building codes and other similar Laws, and no such Laws prohibit or limit or condition the

use or operation of such premises as currently used and operated. There is no pending, or to Seller's Knowledge, contemplated, threatened or anticipated change in the zoning classification of any of such premises. To Seller's Knowledge, Seller has operated and maintained such premises in accordance with applicable Laws.

Section 3.10 Litigation and Claims.

Except as set forth on Schedule 3.10: (a) there is no civil, criminal or administrative Claim or investigation pending or, to Seller's Knowledge, threatened, against Seller or any Seller Affiliate with respect to or relating to the Business, any of the Transferred Assets or Assumed Liabilities; and (b) neither the Business, nor any of the Transferred Assets nor any Assumed Liability is subject to any order, writ, judgment, award, injunction or decree of any Governmental Entity or of any arbitrator.

Section 3.11 Undisclosed Liabilities.

Except as set forth on Schedule 3.11, Seller has no Liability (and to Seller's Knowledge there is no basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against any of them giving rise to any Liability), except for (i) Liabilities set forth on the face of the Financial Statements and (ii) Liabilities which have arisen after the Most Recent Fiscal Year End in the Ordinary Course (none of which results from, arises out of, relates to, is in the nature of, or was caused by any breach of contract, breach of warranty, tort, infringement, or violation of law).

Section 3.12 Intellectual Property.

(a) Seller owns or has the right to use pursuant to written license, sublicense, agreements or permission all of the Transferred Intellectual Property. Each item of Transferred Intellectual Property and Seller's rights under the Assumed License Agreement will be owned or available for use by right by Buyer immediately upon Closing, without the payment of any additional amounts to any third party, other than applicable Assumed Liabilities. Upon Closing, all available patent rights as to any of the Transferred Intellectual Property or any of the Products may be pursued exclusively by Buyer.

(b) Seller owns and Buyer will receive at Closing, free and clear of all Encumbrances (except for Permitted Encumbrances), all Intellectual Property and other proprietary information, processes and formulae used in, related to or arising from the Business or otherwise necessary for the ownership, maintenance and use of the Transferred Assets and the conduct of the Business.

(c) To Seller's Knowledge, Seller has not interfered with, infringed upon, misappropriated or otherwise violated (whether through the use of the Transferred Intellectual Property or otherwise) any Intellectual Property rights of any third party, and no Claim has been asserted by any Person as to the use of the Transferred Intellectual Property or alleging any such interference, infringement, misappropriation or violation (including any Claim that Seller must license or refrain from using any Intellectual Property rights of any third party), and Seller does not know of any valid basis for any such Claim. To Seller's Knowledge, no third party has interfered with, infringed upon, misappropriated or otherwise violated any rights of Seller with respect to the

Transferred Intellectual Property. Seller has made available to Buyer all infringement studies, including opinions of counsel, prepared by or on behalf of Seller.

(d) Schedule 2.1(c)(i) identifies all Software of Seller. Seller has made available to Buyer correct and complete copies of all Software that is Transferred Intellectual Property, as amended to date, and has made available to Buyer correct and complete copies of all other written documentation evidencing ownership and prosecution (if applicable) of each such item of Software. Except as set forth in Schedule 3.12(d), with respect to each such item of Software:

(i) the Software is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge nor, to Seller's Knowledge, is any of the foregoing threatened;

(ii) no Claim or investigation is pending or, to Seller's Knowledge, threatened, which challenges the legality, validity, enforceability, use or ownership of the Software; and

(iii) Seller has not agreed to indemnify any Person for or against any interference, infringement, misappropriation or other violation with respect to the Software.

(e) Schedule 2.1(c)(ii), Schedule 2.1(c)(iii) and Schedule 2.1(c)(iv) identify each Patent, Trademark and Copyright of Seller. Seller has made available to Buyer correct and complete copies of all Patents, Trademarks and Copyrights related to such Transferred Intellectual Property, as amended to date, and has made available to Buyer correct and complete copies of all other written documentation evidencing ownership and prosecution (if applicable) of each such Patent, Trademark or Copyright, including all applications, registrations and prosecution materials. Except as set forth in Schedule 3.12(e), with respect to each such Patent, Trademark and Copyright:

(i) the Patent, Trademark or Copyright is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge nor, to Seller's Knowledge, is any of the foregoing threatened;

(ii) no Claim or investigation is pending or, to Seller's Knowledge, threatened, which challenges the legality, validity, enforceability, use or ownership of the Patent, Trademark or Copyright;

(iii) Seller has not agreed to indemnify any Person for or against any interference, infringement, misappropriation or other violation with respect to the Patent, Trademark or Copyright; and

(iv) Seller has not taken, nor does it know of, any actions, including a sale or offer for sale, the disclosure of which could lead to the invalidity of any resulting Patent, Trademark or Copyright.

(f) Schedule 2.1(e) identifies each Product and Seller has made available to Buyer correct and complete copies of all items related to the same, as amended to date, and has made available to Buyer correct and complete copies of all other written documentation evidencing ownership and prosecution (if applicable) of each such Product, including all applications,

registrations and prosecution materials. Except as set forth in Schedule 3.12(f), with respect to each Product:

(i) the Product is not subject to any outstanding injunction, judgment, order, decree, ruling, or charge nor, to Seller's Knowledge, is any of the foregoing threatened;

(ii) no Claim or investigation is pending or, to Seller's Knowledge, threatened, which challenges the legality, validity, enforceability, use or ownership of the Product;

(iii) Seller has not agreed to indemnify any Person for or against any interference, infringement, misappropriation or other violation with respect to the Product.

(g) With respect to each Assumed License Agreement:

(i) the Assumed License Agreement is legal, valid, binding, enforceable and in full force and effect with respect to Seller and, to Seller's Knowledge, any other party thereto;

(ii) the Assumed License Agreement will continue to be legal, valid, binding, enforceable and in full force and effect with respect to Buyer and any other party thereto following the consummation of the Transaction;

(iii) neither Seller nor, to Seller's Knowledge, any other party to the Assumed License Agreement is in breach or default, and no event has occurred which with notice or lapse of time would constitute a breach or default or permit termination, modification or acceleration thereunder;

(iv) neither Seller nor, to Seller's Knowledge, any other party to the Assumed License Agreement has repudiated any material provision thereof or threatened any breach thereof;

(v) to the Seller's Knowledge, (i) with respect to each Assumed License Agreement that is a sublicense of Intellectual Property owned by a third party, the representations and warranties set forth in Section 3.12(g)(i) through Section 3.12(g)(iv) are true and correct with respect to the underlying license; and (ii) no Claim or investigation is pending or threatened that challenges the legality, validity or enforceability of the Intellectual Property owned by a third party underlying the Assumed License Agreement, and there is no basis for any such Claim.

(h) Schedule 3.12(h) sets forth the form and placement of the proprietary legends and copyright notices displayed in or on the Software. To Seller's Knowledge, in no instance has the eligibility of the Software for protection under applicable copyright law been forfeited to the public domain by omission of any required notice or any other action.

(i) Seller has promulgated and used its commercially reasonable efforts to enforce the trade secret protection program set forth in Schedule 3.12(i). To Seller's Knowledge, there has been no material violation of such program by any Person. To Seller's Knowledge, the Transferred Intellectual Property (including any source code and system documentation relating to the Software): (i) has at all times been maintained in confidence; and (ii) has been disclosed by

Seller only to employees and consultants having a “need to know” the contents thereof in connection with the performance of their duties to Seller.

(j) To Seller’s Knowledge, all personnel, including employees, agents, consultants and contractors, who have contributed to or participated in the conception, reduction to practice or development of the Technical Documentation, Transferred Intellectual Property and Products on behalf of Seller either: (i) have been party to a “work-for-hire” arrangement or agreement with Seller, in accordance with applicable federal and state law, that has accorded Seller full, effective, exclusive and original ownership of, and all right, title and interest in and to, all tangible and intangible property thereby arising; or (ii) have executed appropriate instruments of assignment in favor of Seller as assignee that have conveyed to Seller full, effective and exclusive ownership of all right, title and interest in and to all tangible and intangible property arising thereby.

Section 3.13 Adequacy of Technical Documentation.

The Technical Documentation includes the source code, system documentation, statements of principles of operation and schematics for all of the Intellectual Property, as well as any pertinent commentary or explanation, including any commentary contained in any source code, that may be necessary to Seller’s Knowledge, to render such materials understandable to Buyer and, with respect to any Software, usable by a trained computer programmer.

Section 3.14 Intellectual Property Rights Granted to Seller.

(a) Schedule 3.14(a) lists each license, sublicense, agreement and permission by which Seller uses or has right, prospective rights to such rights or interests in any Intellectual Property owned by a third party. Seller has made available to Buyer correct and complete copies of all such licenses, sublicenses and agreements (as amended to date). The Seller has not obtained any such rights in any Intellectual Property under any oral license, sublicense, agreement or permission.

(b) Seller has obtained the full, unrestricted and legal right and license to use, make, have made, copy, publicly display, publicly perform, modify and distribute the third-party Intellectual Property contained in the Transferred Intellectual Property and Technical Documentation pursuant to the Assumed License Agreements. Except as set forth on Schedule 3.14(b), to Seller’s Knowledge, the Transferred Intellectual Property and the Technical Documentation contain no other programming, materials or Intellectual Property in which any third party may claim superior, joint or common ownership, including any right or license. The Transferred Intellectual Property and the Technical Documentation do not contain derivative works, reproductions or copies of any programming or materials not owned in their entirety by Seller and included in the Transferred Assets.

Section 3.15 Third-Party Interests in Intellectual Property.

Schedule 3.15 identifies each license, sublicense, agreement and permission by which a third-party uses or has rights, prospective rights to such rights or interests in any Intellectual Property or Technical Documentation owned by Seller. Seller has made available to Buyer correct and complete copies of all such agreements (as amended to date). The Seller has not granted any such rights in any Intellectual Property under any oral license, sublicense, agreement or permission. The licenses and sublicenses set forth on Schedule 3.15 constitute only end-user agreements, each in a standard form

previously disclosed to Buyer and each of which grants the end-user thereunder solely the non-exclusive right and license to use an identified Intellectual Property and related user documentation, for internal purposes only. There are no contracts, agreements, licenses and other commitments and arrangements in effect with respect to the marketing, distribution, licensing, or promotion of the Inventory, the Technical Documentation, the Transferred Intellectual Property or the Products by any independent sales person, distributor, sublicensor or other re-marketer or sales organization.

Section 3.16 Major Vendors and Customers.

Schedule 3.16 lists each third-party licensor, developer, re-marketer, distributor and supplier of property or services to, and each licensee, end-user or customer of, the Business to whom Seller paid or billed in the aggregate $10,000 (in cash, stock, services, debt or other consideration) or more since January 1, 2007, together with, in each case, the amount paid or billed during such period. The consummation of the Transaction will not result in the loss of any significant customer, potential customer or vendor of the Business.

Section 3.17 Assumed Contracts.

(a) Seller has made available to Buyer true and complete copies of each Assumed Contract that is in written form, and true and complete written summaries of each Assumed Contract that is oral. Each of the Assumed Contracts constitutes the valid and legally binding obligation of Seller and is enforceable in accordance with its terms. Each of the Assumed Contracts constitutes the entire agreement of the respective parties thereto relating to the subject matter thereof. All obligations required to be performed under the terms of the Assumed Contracts by the date hereof have been performed by Seller, and to Seller's Knowledge by the other parties thereto. All obligations required to be performed under the terms of the Assumed Contracts by the Closing Date shall have been performed by Seller, and to Seller's Knowledge by the other parties thereto. No act or omission has occurred or failed to occur which, with the giving of notice, the lapse of time or both would constitute a default under any of the Assumed Contracts or permit termination, modification or acceleration thereunder, and each of the Assumed Contracts is in full force and effect without default on the part of Seller and, to Seller's Knowledge, of the other parties thereto.

(b) Except for the Approvals, none of the Assumed Contracts requires consent or waiver for its assignment to and assumption by Acquisition Sub.

(c) Except for this Agreement, the Assumed Contracts, the Plans (as defined in Section 3.21), and any agreements identified in Schedule 2.1(j), there are no: (i) contracts or commitments affecting the use or value of the Business or any of the Transferred Assets; (ii) agreements, licenses or commitments with respect to Transferred Intellectual Property or affecting the Business or requiring future performance by Seller; (iii) collective bargaining agreements or other contracts or commitments to or with any labor unions or other employee representatives, groups of employees, works councils or the like; (iv) employment contracts or other contracts, agreements or commitments to or with individual current, former or prospective employees, consultants or agents; or (v) joint ventures or other contracts or commitments providing for payments based in any manner on the revenues or profits of Seller, the Business or any Transferred Asset.

Section 3.18 Warranties.

All Products sold and services rendered by the Seller on or before the date hereof have been in conformity with written warranties and commitments and express and implied warranties of Seller as set forth on Schedule 3.18. As of June 30, 2008, the Seller had no Liability for replacement of such Products or other damages in connection with such Products or services rendered, except to the extent of any warranty reserve set forth on the Financial Statements, which warranty reserve is adequate to cover the amount of all reasonably anticipated warranty-related claims for Products sold and services rendered on or before June 30, 2008. As of the Closing Date, the Seller will have no Liability for replacement of such Products or other damages in connection with Product sold or services rendered, except to the extent of any warranty reserve set forth on Schedule 3.18, which warranty reserve will be adequate to cover the amount of all reasonably anticipated warranty-related claims for Products sold or services rendered on or before the Closing Date. No Product sold or service rendered by the Seller is subject to any contractual guaranty, warranty or other indemnity beyond the applicable standard terms and conditions of sale or license. Seller has heretofore made available to Buyer copies of the standard terms and conditions of sale or license used by the Seller, which contain all applicable guaranty, warranty and indemnity provisions.

Section 3.19 Taxes.

Except as set forth on Schedule 3.19:

(a) Seller (and each affiliated, unitary or combined group of which Seller is or has been a member) has timely filed all material federal, state, local and foreign income and franchise Tax Returns, and all other material Tax Returns that are required to be filed by it on or before the date hereof, and all Taxes shown on any Tax Return have been paid, and the Financial Statements reflect an adequate accrual, based on the facts and circumstances existing as of the respective dates thereof, for all Taxes payable by Seller through the respective dates thereof;

(b) there are no deficiencies for any Taxes proposed, asserted or assessed against Seller, no requests for waivers of the time to assess any Taxes are pending, and no power of attorney with respect to any Taxes has been executed or filed with any taxing authority;

(c) Seller has complied with all applicable Laws relating to the payment and withholding of material Taxes and has withheld and paid all material Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor or other Person;

(d) there are no Encumbrances for Taxes (other than Permitted Encumbrances set forth on Schedule 3.19) on the assets of Seller;

(e) Seller is not bound by any agreement (either with any Person or any taxing authority) with respect to Taxes that will remain in effect following Closing;

(f) Seller has not constituted either a “distributing corporation” or a “controlled corporation” (within the meaning of Section 355(a)(1)(A) of the Code) in a distribution of stock qualifying for tax-free treatment under Section 355 of the Code (i) in the two (2) years prior to the date of this Agreement or (ii) in a distribution which could otherwise constitute part of a “plan” or

“series of related transactions” (within the meaning of Section 355(e) of the Code) in conjunction with the Transaction;

(g) Seller has never been a member of an affiliated, unitary or combined group of corporations (within the meaning of Section 1504 of the Code and any analogous provision of state, local or foreign Law) other than the affiliated group of which Seller is the common parent;

(h) Seller has not filed a consent pursuant to the provisions of Section 341(f) of the Code (or any corresponding provision of state or local Law) or agreed to have Section 341(f)(2) of the Code (or any corresponding provision of state or local Law) apply to any disposition of any asset owned by Seller;

(i) Seller has not agreed to make, nor is required to make, any adjustment under Section 481(a) of the Code or any similar provision of state, local or foreign Law by reason of a change in accounting methods or otherwise;

(j) no property owned by Seller is (i) property required to be treated as being owned by another Person pursuant to the provisions of Section 168(f)(8) of the Internal Revenue Code of 1954, as amended, and in effect immediately prior to the enactment of the Tax Reform Act of 1986, (ii) “tax-exempt use property” within the meaning of Section 168(h)(1) of the Code, (iii) “tax-exempt bond financed property” within the meaning of Section 168(g) of the Code, or (iv) “limited use property” (as that term is used in Rev. Proc. 76-30);

(k) no audit or other administrative or court proceedings are pending with respect to Taxes of Seller and no notice thereof has been received; and no issue has been raised by any taxing authority in any presently pending or prior audit that could have a Material Adverse Effect on Seller for any period after Closing;

(l) no Claim has been made by a taxing authority in a jurisdiction where Seller does not file Tax Returns that Seller is or may be subject to taxation in that jurisdiction;

(m) Seller is not a party to any contract, agreement or other arrangement which provides for the payment of any amount which would not be deductible by reason of Section 280G of the Code; and

(n) Seller has made available to Buyer true and complete copies of (i) all federal and state income Tax Returns of Seller (or the portion of any affiliated, unitary or combined Tax Return relating to Seller) for the preceding three (3) taxable years, and (ii) any audit report issued within the last three (3) years (or otherwise with respect to any audit or proceeding in progress) relating to Taxes of Seller.

Section 3.20 Employment Matters.

Except as set forth on Schedule 3.20: (a) Seller is not a party to or bound by any collective bargaining or similar agreement; (b) during the three-year period preceding the date hereof, the Business has not experienced any strikes, grievances or Claims of unfair labor practice; (c) Seller has no Knowledge of any organizational effort presently being made or threatened by or on behalf of any labor union with respect to the employees of the Business; (d) during the three-year period preceding

the date hereof, there has not been, and there is not presently pending or existing or, to Seller's Knowledge, threatened, any strike, work stoppage, labor arbitration or proceeding in respect of the grievance of any employee, any application or complaint filed by an employee or union with the National Labor Relations Board or any comparable Governmental Entity, organizational activity or other labor dispute against the Business or its premises; (e) no application for certification of a collective bargaining agent is pending or, to Seller's Knowledge, threatened; (f) there is no lockout of any employees by the Business; (g) there are no Claims currently pending or, to Seller's Knowledge, threatened, against Seller alleging the violation of any Laws relating to employment, equal employment opportunity, nondiscrimination, immigration, wages, hours, benefits, collective bargaining, the payment of social security and similar Taxes, occupational safety and health and plant closing (collectively, "***Employment Laws***"), or any other Claim whatsoever, whether based in tort, contract or Law, arising out of or relating in any way to a Person's employment (actual or alleged), application for employment or termination of employment with Seller and, to the Seller's Knowledge, there is no basis for any such Claim; (h) Seller has not been found liable for the payment of Taxes, fines, penalties or other amounts, however designated, for failure to comply with any Employment Laws, and, to the Seller's Knowledge, there is no basis for any such Liability; and (i) Seller has paid all amounts of compensation due to its employees and former employees and has properly withheld and reported Taxes on the same.

Section 3.21 Employee Benefits.

(a) Schedule 3.21(a) lists all formal or informal, written or unwritten, employee benefit plans and collective bargaining, employment or severance agreements or other similar arrangements which the Seller, or any ERISA Affiliate, has ever sponsored, maintained, or to which contributions are made, or for which obligations have been incurred, for the benefit of employees of the Seller or an ERISA Affiliate, including, without limitation, (1) any "employee benefit plan" (within the meaning of Section 3(3) of ERISA) (the "***Benefit Plans***"), (2) any profit-sharing, incentive compensation (whether cash or equity), commission, deferred compensation, bonus, stock option, stock purchase, pension, retainer, consulting, retirement, severance, welfare or incentive plan, agreement or arrangement, (3) any plan, agreement or arrangement providing for "fringe benefits" or perquisites to employees, officers, directors or agents, including but not limited to benefits relating to automobiles, clubs, vacation, child care, parenting, sabbatical, sick leave, medical, dental, hospitalization, life insurance and other types of insurance, and (4) any employment agreement. The plans, agreements and arrangements described in this Section 3.21 are referred to herein as "***Plans***. Copies of all written Plans and written descriptions of all unwritten Plans have been provided or made available to Buyer.

(b) None of the Plans is (i) a plan subject to Title IV of ERISA or Section 412 of the Code, (ii) a "multiemployer plan" (within the meaning of Section 3(37) of ERISA), (iii) a "multiple employer plan" (within the meaning of Section 3(40) of ERISA or Section 413(c) of the Code), (iv) a "voluntary employees' beneficiary association" (within the meaning of Section 501(c)(9) of the Code), or (v) a "multiple employer welfare arrangement" (within the meaning of Section 3(40)(A) of ERISA).

(c) Neither the Seller nor any ERISA Affiliate has ever contributed to, or had an obligation to contribute to, any plan subject to Title IV of ERISA or Section 412 of the Code, any "multiemployer plan" (within the meaning of Section 3(37) of ERISA), any "multiple employer

plan” (within the meaning of Section 3(40) of ERISA or Section 413(c) of the Code), any “voluntary employees’ beneficiary association” (within the meaning of Section 501(c)(9) of the Code), or any “multiple employer welfare arrangement” (within the meaning of Section 3(40)(A) of ERISA).

(d) Each Plan has been administered in accordance with: (i) the terms of all applicable governing documents; (ii) the applicable provisions of ERISA, the Code and all other Laws; and (iii) the terms of all applicable employment, collective bargaining and other agreements. Except as set forth in Schedule 3.10, there are no actions, suits, proceedings, disputes, Claims or investigations pending or, to Seller’s Knowledge, threatened against or involving any Plan, and there are no investigations by any Governmental Entity or other Claims (except routine claims for benefits payable in the normal operation of the plan) pending or threatened against or involving any Plan or asserting any rights to benefits under any Plan.

(e) All contributions to, and payments from, the Plans that may have been required to be made in accordance with such plans and, when applicable, Section 302 of ERISA or Section 412 of the Code, have been timely made. All such contributions to the Plans, and all payments under the Plans for any period ending before the Closing Date that are not yet, but will be, required to be made with respect to the employees of the Business, are disclosed on Schedule 3.21(e). Seller has funded or will fund each Plan in accordance with its terms through the Closing Date, including the payment of applicable premiums on any insurance contract funding a Plan for coverage provided through the Closing Date.

(f) No “***prohibited transaction***,” as defined in Section 406 of ERISA and Section 4975 of the Code, has occurred in respect of any Plan, and no civil or criminal action brought pursuant to Part 5 of Title I of ERISA is pending or, to Seller’s Knowledge, threatened in writing or orally against any fiduciary of any Plan.

(g) All of the Plans that are intended to qualify under Section 401(a) of the Code have received favorable determination letters from the Internal Revenue Service to the effect that such plans are so qualified. No determination letter with respect to any such Plan has been revoked nor has revocation of a determination letter been threatened. No Plan has been amended since the date of its most recent determination letter or application therefor in any respect which would adversely affect its qualification or materially increase its cost, and no Plan has been amended in a matter that would require security to be provided in accordance with Section 401(a)(29) of the Code.

(h) Except as set forth on Schedule 3.21(h), to Seller’s Knowledge, there have been no statements or communications made or materials provided to any current or former employee by any Person which constitutes a contract of or binding obligation on Seller to provide for any pension, welfare or other insurance-type benefits to any such employee or former employee, whether before or after retirement, other than benefits under the Plans.

(i) Except as set forth in Schedule 3.21(i) or as expressly set forth in this Agreement, no Transferred Employee will become entitled to any bonus, retirement, severance, job security or similar benefit or any enhanced benefit solely as a result of the Transaction.

(j) There are no unfunded Liabilities of any kind with respect to any employee, whether or not arising under a Plan (including Liabilities arising from any Law, contract, custom, Plan with respect to severance of employment).

(k) There is no liability whatsoever with respect to, or in any way related to, any employee benefit arrangement, the Plans, or the Benefit Plans, which the Buyer shall assume, or could reasonably be expected to assume (by operation of law or otherwise), as part of the transactions contemplated by this Agreement or otherwise.

(l) "***ERISA Affiliate***" means any Person that is a member of "controlled group of corporations" with, or is under "common control" with, or is a member of the same "***affiliated service group***" with the Seller, as defined in Section 414 of the Code.

Section 3.22 Leased Real Property.

(a) Seller does not own any Real Property.

(b) Schedule 3.22(b) sets forth the address of each parcel of Leased Real Property, and a true and complete list of all Leases for each such Leased Real Property (including the date and name of the parties to such Lease document). Seller has delivered to Buyer a true and complete copy of each such Lease document, and in the case of any oral Lease, a written summary of the material terms of such Lease. Except as set forth in Schedule 3.22(b), with respect to each of the Leases:

(i) such Lease is legal, valid, binding, enforceable and in full force and effect;

(ii) this Agreement does not require the consent of any other party to such Lease (except for those Leases for which Lease Consents, as hereinafter defined, are obtained), will not result in a breach of or default under such Lease, and will not otherwise cause such Lease to cease to be legal, valid, binding, enforceable and in full force and effect on identical terms following the Closing;

(iii) Seller's possession and quiet enjoyment of the Leased Real Property under such Lease has not been disturbed and there are no disputes with respect to such Lease;

(iv) neither Seller nor to Seller's Knowledge any other party to the Lease is in breach or default under such Lease, and to Seller's Knowledge no event has occurred or circumstance exists which, with the delivery of notice, the passage of time or both, would constitute such a breach or default, or permit the termination, modification or acceleration of rent under such Lease;

(v) no security deposit or portion thereof deposited with respect to such Lease has been applied in respect of a breach or default under such Lease which has not been redeposited in full;

(vi) Seller neither owes or will owe in the future any brokerage commissions or finder's fees with respect to such Lease;

(vii) the other party to such Lease is not an Affiliate of, and otherwise does not have any economic interest in, Seller;

(viii) Seller has not subleased, licensed or otherwise granted any Person the right to use or occupy such Leased Real Property or any portion thereof;

(ix) Seller has not collaterally assigned or granted any Encumbrance in such Lease or any interest therein; and

(x) there are no Encumbrances on the estate or interest created by such Lease.

(c) The Leased Real Property identified on Schedule 3.22(b), comprises all of the real property used or intended to be used in, or otherwise related to, Seller's business; and Seller is not a party to any agreement or option to purchase any real property or interest therein.

(d) To Seller's Knowledge, all buildings, structures, fixtures, building systems and equipment, and all components thereof, including the roof, foundation, load-bearing walls and other structural elements thereof, heating, ventilation, air conditioning, mechanical, electrical, plumbing and other building systems, environmental control, remediation and abatement systems, sewer, storm and waste water systems, irrigation and other water distribution systems, parking facilities, fire protection, security and surveillance systems, and telecommunications, computer, wiring and cable installations, included in the Leased Real Property (the "***Improvements***") are in good condition and repair and sufficient for the operation of Seller's business. There are no structural deficiencies or latent defects affecting any of the Improvements and there are no facts or conditions affecting any of the Improvements which would, individually or in the aggregate, interfere in any respect with the use or occupancy of the Improvements or any portion thereof in the operation of Seller's business as currently conducted thereon.

(e) There is no condemnation, expropriation or other proceeding in eminent domain, pending or to Seller's Knowledge, threatened, affecting any parcel of Leased Real Property or any portion thereof or interest therein. To Seller's Knowledge, there is no injunction, decree, order, writ or judgment outstanding, nor any claims, litigation, administrative actions or similar proceedings, pending or threatened, relating to the ownership, lease, use or occupancy of the Leased Real Property or any portion thereof, or the operation of Seller's business as currently conducted thereon.

(f) Except as set forth in Schedule 3.22(f), to Seller's Knowledge, the Leased Real Property is in compliance with all applicable building, zoning, subdivision, health and safety and other land use laws, including the Americans with Disabilities Act of 1990, as amended and the current use and occupancy of the Leased Real Property and the operation of Seller's business thereon does not violate any Laws. Seller has not received any notice of violation of any Law and there is no basis for the issuance of any such notice or the taking of any action for such violation. There is no pending or anticipated change in any Law that will materially impair the use or occupancy of any Leased Real Property or any portion thereof in the continued operation of Seller's business as currently conducted thereon.

(g) To Seller’s Knowledge, all certificates of occupancy, permits, licenses, franchises, approvals and authorizations (collectively, the “***Leased Real Property Permits***”) of all governmental authorities, boards of fire underwriters, associations or any other entity having jurisdiction over the Leased Real Property which are required or appropriate to use or occupy the Leased Real Property or operate Seller’s business as currently conducted thereon, have been issued and are in full force and effect. Schedule 3.22(g) lists all material Real Property Permits held by Seller with respect to each parcel of Leased Real Property. Seller has delivered to Buyer a true and complete copy of all Real Property Permits. Seller has not received any notice from any governmental authority or other entity having jurisdiction over the Leased Real Property threatening a suspension, revocation, modification or cancellation of any Real Property Permit and to Seller’s Knowledge, there is no basis for the issuance of any such notice or the taking of any such action. The Real Property Permits are transferable to Seller without the consent or approval of the issuing governmental authority or entity, no disclosure, filing or other action by Seller is required in connection with such transfer, and Buyer shall not be required to assume any additional liabilities or obligations under the Real Property Permits as a result of such transfer.

Section 3.23 Environmental Matters.

(a) Seller has complied in all material respects with all Environmental Laws, and no Claim or investigation has been filed or commenced against Seller or the Business alleging such failure, nor does Seller know of any valid basis for such a Claim.

(b) Except as set forth in Schedule 3.23, the Business does not have any Liability (and the Business has not handled, used, stored, recycled or disposed of any Hazardous Substance, arranged for the disposal of any Hazardous Substance, exposed any employee or other Person to any Hazardous Substance or hazardous condition, or owned or operated any property or facility in any manner, in each case that could reasonably be expected to form the basis for any present or future Claim or investigation giving rise to any such Liability) for damage or remediation to any site, location or body of water (surface or subsurface), or for any illness of or personal injury to any employee or other Person, under any Environmental Law.

Section 3.24 Insurance.

Annexed hereto as Schedule 3.24, is a list of all insurance policies covering the ownership and operations of the Business or the Transferred Assets, reflecting the policies’ terms, identity of insurers, amounts and coverage. Such insurance provides coverage for such risks, and in such amounts, as are reasonable and customary for businesses and assets of the same nature and size as the Business and the Transferred Assets. All of such policies, or similar replacement policies, are now and will be until Closing in full force and effect with no premium arrearages.

Section 3.25 Subsequent Changes.

Since December 31, 2007, there has not occurred any event, condition or change in the operations, condition (financial or otherwise) or assets of the Business that has had, or would at a later date have, a Material Adverse Effect. Without limiting the generality of the foregoing, since December 31, 2007, except as set forth on Schedule 3.25, Seller has not:

(a) sold, leased, transferred, pledged, encumbered or assigned any of the assets of the Business outside the Ordinary Course;

(b) entered into any agreement, contract, lease or license (or series of related agreements, contracts, leases, and licenses) other than Ordinary Course sales and purchase orders;

(c) accelerated, terminated, modified or canceled any Assumed Contract except in the Ordinary Course, or materially modified the Business's backlog; and to Seller's Knowledge, no other party has done so as a result of any default by Seller;

(d) made any capital expenditure (or series of related capital expenditures) involving more than $10,000;

(e) made any capital investment in, any loan to, or any acquisition of the securities or assets of, any other Person;

(f) issued any note, bond or other debt security or created, incurred, assumed or guaranteed any indebtedness for borrowed money or capitalized lease obligation;

(g) imposed any Encumbrances upon any of its assets, tangible or intangible;

(h) delayed or postponed the payment of accounts payable or other Liabilities, or accelerated the payment of any accounts receivable, outside the Ordinary Course;

(i) canceled, compromised, waived or released any material right or Claim (or series of related rights and Claims) outside the Ordinary Course;

(j) granted any license or sublicense of any rights under or with respect to any Intellectual Property outside the Ordinary Course;

(k) experienced any material damage, destruction or loss to the assets of the Business not covered by insurance;

(l) granted any increase in the base compensation of any employee or made any other material change in employment terms for any employee, except for normal compensation increases made in the Ordinary Course;

(m) disclosed any Confidential Information; or

(n) entered into any commitment to do any of the foregoing.

Section 3.26 Related-Party Transactions.

Except as disclosed in Schedule 3.26, Seller is not a party to any contract, agreement, license, lease or arrangement with, or any other commitment to, directly or indirectly: (a) any stockholder, director, officer, Affiliate or salaried employee of Seller; or (b) any Person in which any such stockholder, director, officer or salaried employee has a material equity or participating interest.

Section 3.27 Inventory.

All of the Inventory has been costed and valued, and accurately presented in the Financial Statements. All of the Inventory is of good and merchantable quality and is saleable and useable in the Ordinary Course.

Section 3.28 Finders' Fees.

There is no investment banker, broker, finder or other intermediary who has been retained by or is authorized to act on behalf of Seller or Seller Affiliate who might be entitled to any fee or commission from Buyer or any Affiliate of Buyer in connection with the Transaction.

Section 3.29 Disclosure.

The provisions of this Agreement and the schedules with respect to Seller, and the provisions of all other documents and information furnished by Seller pursuant hereto, do not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made herein and therein not misleading.

Section 3.30 Powers of Attorney.

There are no outstanding powers of attorney executed on behalf of Seller.

Section 3.31 Books and Records.

All Books and Records, including, correspondence, customer lists, records and information, sales and promotional materials, catalogs and advertising literature, advertiser lists, customer market data, blueprints, drawings and other technical papers and specifications, product research and test data, quality control records, service manuals, service bulletins, training materials, product bulletins, product information booklets, maintenance, repair and asset history and depreciation records, records or files kept pursuant to any law, records and files kept in connection with or as required in all material respects by any Governmental Entity (including the Occupational Safety and Health Administration, the Office of Federal Contract Compliance Programs, the Environmental Protection Agency, the California Department of Industrial Relations or the United States Departments of Labor), and accounting records, ledgers and books of original entry relating to the operation of the Business are, and have been, maintained in Seller's usual, regular and ordinary manner consistent with past practice.

ARTICLE IV. REPRESENTATIONS AND WARRANTIES OF BUYER

As of the date hereof and (except as otherwise expressly stated herein) as of the Closing, Buyer represents and warrants to Seller and each Selling Shareholder as follows:

Section 4.1 Organization and Power.

Each of Buyer and Acquisition Sub is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware and Florida, respectively, and, on or before the Closing Acquisition Sub shall duly register as a foreign corporation doing business in California.

Each of Buyer and Acquisition Sub has all requisite corporate power and authority to enter into this Agreement and the Closing Documents, to perform their obligations hereunder and thereunder, to own, lease and operate its assets, and to carry on their businesses as now being conducted.

Section 4.2 Authorization.

Each of Buyer and Acquisition Sub has full corporate power and authority to execute and deliver this Agreement and each Closing Document, and to perform its obligations hereunder and thereunder. The execution, delivery and performance by Buyer and Acquisition Sub of this Agreement and each Closing Document have been duly and validly authorized by all necessary corporate action on the part of Buyer and Acquisition Sub, and no additional corporate authorization or consent is required in connection therewith.

Section 4.3 Approvals.

Except as disclosed on Schedule 4.3, no consent, approval, waiver, authorization or novation is required to be obtained by Buyer or Acquisition Sub from, and no notice or filing is required to be given by Buyer or Acquisition Sub to or made by Buyer or Acquisition Sub with, any Governmental Entity or other Person in connection with the execution, delivery and performance by Buyer or Acquisition Sub of this Agreement and each Closing Document and the consummation of the Transaction.

Section 4.4 Non-Contravention.

The execution, delivery and performance by Buyer and Acquisition Sub of this Agreement and each Closing Document, and the consummation of the Transaction does not and will not: (a) violate any provision of the articles of incorporation, bylaws or other organizational documents of Buyer and Acquisition Sub; (b) conflict with, or result in the breach of, or constitute a default under, or result in the termination, cancellation or acceleration (whether after the filing of notice or the lapse of time or both) of any right or obligation of Buyer or Acquisition Sub under, any agreement, contract, lease, sublease, arrangement, commitment or license to which Buyer or Acquisition Sub is a party or by which any of their assets are bound; or (c) violate or result in a breach of or constitute a default under any Law, judgment, injunction, order, decree or other restriction of any Governmental Entity to which Buyer or Acquisition Sub is subject.

Section 4.5 Binding Effect.

This Agreement and each Closing Document, when executed and delivered by Buyer, Acquisition Sub and Seller, will constitute valid and legally binding obligations of Buyer and Acquisition Sub, enforceable against Buyer and Acquisition Sub in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equity principles.

Section 4.6 Finders' Fees.

There is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of Buyer or any Affiliate of Buyer who might be entitled to any fee or commission from Seller or any Affiliate of Seller in connection with the Transaction.

Section 4.7 Disclosure.

The provisions of this Agreement with respect to Buyer, and the provisions of all other documents and information furnished by Buyer pursuant hereto, do not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements herein and therein not misleading.

ARTICLE V. COVENANTS

Section 5.1 Access.

Prior to Closing, Seller will permit Buyer and its representatives to have access, during regular business hours and upon reasonable advance notice, to the Books and Records of Seller relating to the assets, Liabilities and operations of the Business, to Seller's employees and to the locations at which the Business is conducted or at which such Books and Records are located, subject to reasonable security regulations of Seller and any Laws. Seller will furnish, or cause to be furnished, to Buyer any financial and operating data and other information that is available with respect to the Business as Buyer from time to time reasonably requests, and will instruct its employees, counsel, independent accountants and financial advisors to cooperate with Buyer in its investigation of the Business.

Section 5.2 Conduct of Business.

(a) During the period from the date hereof to Closing, except as otherwise contemplated by this Agreement or as Buyer otherwise consents in writing, Seller will conduct the Business in the Ordinary Course and without limiting the generality of the foregoing will not:

(i) incur or guaranty any indebtedness other than trade payables incurred in the Ordinary Course;

(ii) incur, create or assume any Encumbrance (other than a Permitted Encumbrance) on any assets, other than in the Ordinary Course;

(iii) acquire or dispose of any assets, other than in the Ordinary Course;

(iv) make any change of accounting or accounting practice, procedure or policy;

(v) enter into any agreement, contract, lease or license (or series of related agreements, contracts, leases, and licenses) other than those in the Ordinary Course or those described in Schedule 5.2;

(vi) accelerate, terminate, modify or cancel any Assumed Contract, or materially modify the Business's backlog;

(vii) make any capital expenditure (or series of related capital expenditures) involving more than $5,000;

(viii) fail to maintain the Transferred Assets that are tangible and all parts thereof in as good working order and condition as at present, ordinary wear and tear excepted;

(ix) fail to keep in full force and effect its current insurance policies or other comparable insurance affecting the Business or the Transferred Assets;

(x) make any capital investment in, any loan to, or any acquisition of the securities or assets of, any other Person;

(xi) issue any note, bond or other debt security or create, incur, assume or guarantee any indebtedness for borrowed money or capitalized lease obligation;

(xii) cancel, compromise, waive or release any material right or Claim (or series of related rights and Claims) outside the Ordinary Course;

(xiii) dispose of, license or permit to lapse any rights in any Transferred Intellectual Property;

(xiv) grant any increase in the base compensation of any of its employees or make any other material change in benefit plans or employment terms for any of its employees;

(xv) pay or distribute any cash outside of the Ordinary Course; or

(xvi) enter into any commitment to do any of the foregoing.

(b) During the period from the date hereof to Closing, Seller will use commercially reasonable efforts to preserve the Business and the Transferred Assets intact and to preserve for Buyer its relationship with licensors, developers, consultants, re-marketers, suppliers, distributors, customers, employees and others having regular business relations with it. If, during the period from the date hereof to Closing, the Seller desires to terminate the employment of any employee, it shall give the Buyer five (5) business days' prior written notice before making such termination.

Section 5.3 Reasonable Efforts; Further Assurances.

(a) During the period from the date hereof to Closing, Seller and Buyer will each cooperate and use commercially reasonable efforts to fulfill the conditions precedent to its own and the other party's obligations hereunder.

(b) Seller and Buyer will cooperate and use their respective commercially reasonable efforts to comply with all Laws in furtherance of the Transaction, including the execution of additional agreements, instruments and documents that may be required by local Law. Subject to the provisions hereof, from time to time before and after the Closing Date, each party will promptly execute, acknowledge and deliver any other assurances or documents reasonably requested by the other party and necessary for the other party to satisfy its obligations hereunder or to obtain the benefits contemplated hereby.

Section 5.4 Business Name Change.

In furtherance of the purchase and sale of the Transferred Assets hereunder, Seller will cause the business name of Seller and any Seller Affiliate to be changed, effective as of the Closing Date, to a name completely dissimilar to "***U.S. Power Services, Inc.***" and thereafter will not adopt, use, cause to be used or approve or sanction the use of such names, the name "***U.S. Power Services, Inc.***" or any other name so similar as to cause confusion or create a likelihood of confusion with the name U.S. Power Services or any derivation thereof, or any other trade name or assumed name comprising the Transferred Assets.

Section 5.5 Exclusivity.

(a) From the date of this Agreement until November 12, 2008 (the "***No Shop Period***"), or such earlier date as this Agreement is terminated under Section 8.1 hereof:

(i) Buyer will have the exclusive right to negotiate with Seller with respect to a Purchase Transaction;

(ii) Seller will and will cause each Affiliate and representative of Seller to: (A) terminate all current discussions and negotiations regarding a Purchase Transaction with any party other than Buyer or Buyer's Affiliates; and (B) not seek or initiate proposals or offers from, enter into, continue or engage in discussions or negotiations with, or furnish information to any party other than Buyer or Buyer's Affiliates relating to a Purchase Transaction.

(b) For purposes of this Section 5.5, "***Purchase Transaction***" means (i) any direct or indirect acquisition, whether by purchase, merger, consolidation, stock sale (primary or secondary) or any other structure which would result in the sale of any part of Seller's capital stock, assets or business, in either one or a series of transactions; or (ii) any arrangement whereby effective operating control of Seller's assets, consolidated business or a substantial portion thereof is granted to another party.

(c) During the No-Shop Period, Seller will promptly notify Buyer of the existence of any proposal or communication it receives from any person concerning not only a Purchase Transaction but also any transaction similar to that described in subsection (a) above for any part of Seller's capital stock, assets or business.

(d) Buyer and Seller agree that the certain Letter of Intent between Buyer and Seller dated September 8, 2008, is hereby terminated and superseded, in its entirety, by the terms of this Agreement.

Section 5.6 Confidentiality.

(a) Seller and Buyer (each, the "***Receiving Party***") hereby covenant and agree, each on behalf of itself and on behalf of its Affiliates, that from and after the Closing Date, Receiving Party and its Affiliates will not (unless legally compelled to do so) disclose, give, sell, use or otherwise divulge any Confidential Information of the other party (the "***Disclosing Party***") or permit their respective employees, officers, directors or advisors to do the same. If Receiving Party or its Affiliates, or any of their respective employees, officers, directors or advisors become legally

compelled to disclose any Confidential Information, Receiving Party shall provide Disclosing Party with prompt written notice of such requirement so that Disclosing Party may seek a protective order or other remedy or waive compliance with this Section 5.6. In the event that such protective order or other remedy is not obtained, or Disclosing Party waives compliance with this Section 5.6, Receiving Party or its Affiliates, as applicable, shall furnish only that portion of Confidential Information which is legally required to be provided and exercise its commercially reasonable efforts to obtain assurances that appropriate confidential treatment will be accorded Confidential Information. The confidentiality and restrictive use obligations under this Section 5.6 shall not apply to information which is independently developed by Receiving Party or its Affiliates after Closing without the use or benefit of any information that would otherwise be Confidential Information as shown by records maintained in the ordinary course of the developing party's business, or to any information that, at the time of disclosure, is or subsequently becomes available publicly; provided, however, that such information was not disclosed in breach of this Agreement by Receiving Party, Receiving Party's Affiliates or their respective employees, officers, directors or advisors.

(b) Receiving Party, on behalf of itself and on behalf of its Affiliates and their respective employees, officers, directors or advisors acknowledges that a breach of its obligations under this Section 5.6 may result in irreparable injury to Disclosing Party. In the event of the breach by Receiving Party or any of its Affiliates or their respective employees, officers, directors or advisors of any of the terms and conditions of this Section 5.6 to be performed, Disclosing Party shall be entitled, if it so elects, to institute and prosecute proceedings in any court of competent jurisdiction, either at law or in equity, to obtain damages for any breach of this Section 5.6, or to enforce the specific performance thereof by such party or to enjoin such party from violating the provisions of this Section 5.6 by seeking a temporary restraining order or similar relief.

(c) Buyer and Seller agree that upon Closing the confidentiality and non-disclosure provisions set forth in that certain Letter of Intent between Buyer and Seller dated September 8, 2008, will automatically terminate and be superseded, in their entirety, by the terms of this Agreement.

Section 5.7 Public Disclosure.

Notwithstanding anything herein to the contrary, Seller may not issue or cause to be issued a press release or similar public announcement or communication, whether prior or subsequent to Closing, concerning the Transaction or the execution, performance or terms of this Agreement, unless specifically approved in advance in writing by Buyer. Seller will cause its Affiliates to comply with the terms and conditions of this section and Seller will be liable for any breach of this section by its Affiliates.

Section 5.8 Bulk Sales.

If the provisions of Article 6 of the Uniform Commercial Code have not been repealed in each jurisdiction where any of the Transferred Assets are located, Seller and Buyer hereby waive compliance with the provisions of Article 6 of the Uniform Commercial Code in each such jurisdiction that has not repealed such article and where any of the Transferred Assets are located in connection with the Transaction. Seller will be responsible for all Liabilities arising out of the parties' waiver of such compliance.

Section 5.9 Taxes.

(a) Responsibility for the preparation and filing of Tax Returns and the payment of Taxes incurred as a result of the sale and transfer of the Transferred Assets and the Assumed Liabilities hereunder will be as follows:

(i) Buyer and Seller will each prepare and file such Tax Returns as may be, respectively, required of them in connection with all excise, sales, use, value added, transfer, stamp, documentary, filing, recordation or other similar Taxes incurred as a result of the sale and transfer of the Transferred Assets and the Assumed Liabilities hereunder in accordance with the form of the Transaction as may otherwise be required by a Governmental Entity; provided, however, that the cost of all such Taxes will be borne by Buyer;

(ii) Seller will be responsible for the preparation and filing of any required income Tax Returns and the payment of all of Seller's income Taxes incurred as a result of the sale and transfer of the Transferred Assets and the Assumed Liabilities hereunder;

(iii) Seller will be responsible for the preparation and filing of all Tax Returns and the payment of all other Taxes of any nature incurred in the Business or relating to the Transferred Assets, the Assumed Liabilities and the Applicable Employees for the period up to and including the Closing Date; and

(iv) For the period after the Closing Date, Buyer will be responsible for the preparation and filing of all Tax Returns and the payment of all other Taxes of any nature incurred or relating to the Transferred Assets or the Assumed Liabilities.

(b) Buyer and Seller will provide each other with such cooperation and information as either of them reasonably may request of the other in connection with filing any Tax Return, amended return or Claim for refund, determining a Liability for Taxes or a right to refund of Taxes or preparation for litigation or investigation of Claims or in connection with any audit. Each of Buyer and Seller will retain all Tax Returns, schedules and work papers and all material records or other documents relating to Tax matters of the Business for the taxable year of Seller ending after the Closing Date and for all previous years, until the expiration of the statute of limitations of the taxable years to which such Tax Returns and other documents relate (and, to the extent notified by the other party in writing, any extensions thereof). Any information obtained under this Section 5.9(b) will be kept confidential as contemplated by Section 5.6, except as may be otherwise necessary in connection with the filing of Tax Returns or Claims for refund or in conducting an audit or other proceeding related to the payment of Taxes.

(c) If in order to prepare properly documents required to be filed with Governmental Entities or its financial statements, it is necessary that either Buyer or Seller be furnished with additional information relating to the Transferred Assets or the Assumed Liabilities and such information is in the possession of the other party, such other party will use its reasonable efforts to furnish such information in a timely manner to the party reasonably requiring such information, at the cost and expense of the party requiring such information.

(d) With respect to all Hired Employees, Seller will cause to be issued IRS Form W-2s for that portion of calendar year 2008 ending on the Closing Date during which time the Hired

Employees were employees of Seller. Buyer shall have no obligation to issue any IRS Form W-2s to any Hired Employee for any period on or before the Closing Date.

(e) Seller and Buyer will file or provide to each other such Tax Returns, forms and other documents as may be required or necessary to minimize or obtain an exemption from any excise, sales, use, value added, transfer, stamp, documentary, filing, recordation or other similar Taxes that arise with respect to the Transferred Assets, or the Assumed Liabilities. Without limiting the generality of the foregoing, on or before the Closing Date Buyer will provide Seller with any required sales Tax exemption certificates of Buyer required in connection with the Transaction.

(f) Notwithstanding any other provision of this Section 5.9, no party will have access to the other party's federal, state or foreign income Tax Returns or Books and Records relating thereto.

Section 5.10 Determination and Allocation of Consideration.

Seller and Buyer agree to allocate the Purchase Price in accordance with Schedule 5.10, which shall be prepared by Buyer, and otherwise in accordance with Section 1060 of the Code. Buyer will prepare, and Buyer and Seller will file, an IRS Form 8594 in a timely fashion in accordance with the rules under section 1060 of the Code and in accordance with Schedule 5.10. The determination and allocation of the Purchase Price made pursuant to this Section 5.10 will be binding on Seller and Buyer for all Tax reporting purposes. Neither Seller nor Buyer shall file any tax return or other document or otherwise take any position that is inconsistent with the allocation determined pursuant to this Section 5.10.

Section 5.11 Covenants Not to Sue or Assert Rights.

Seller hereby covenants not to sue Buyer, its Affiliates or their successors, assignees or licensees, from and after the Closing Date, for infringement of any Transferred Intellectual Property. Seller shall not assert rights, from and after the Closing Date, in any Transferred Intellectual Property against Buyer, its Affiliates or their successors, assignees or licensees.

Section 5.12 Certain Contracts.

If the Seller fails to disclose any written or oral license, sublicense, agreement, contract, permission or other understanding to Buyer either in the course of Buyer's due diligence or in any schedule hereto, and Buyer later learns of the same, then Buyer may, in its sole discretion, require the Seller to assign the same or procure the benefits of the same for Buyer.

Section 5.13 Risk of Loss.

Seller will bear all risk of loss, destruction or damage to any of the Transferred Assets occurring prior to the Closing Date, whether due to fire, accident or other casualty, willful act, condemnation, riot, act of God or otherwise, and Buyer will have no responsibility with respect thereto.

Section 5.14 Real Estate Matters.

Buyer and Seller will use commercially reasonable efforts to reach a mutually beneficial agreement with the landlord of the Seller's Riverside, California facility that will allow the Buyer or Acquisition Sub to continue to operate the Business out of that facility.

Section 5.15 Employees.

(a) As used herein, the following terms will have the following respective meanings:

(i) "***Applicable Employees***" means all employees of the Business on the date hereof, as set forth on Schedule 5.15. Seller will cause Schedule 5.15 to include the title, current base salary or compensation and target compensation of each Person listed thereon.

(ii) "***Hired Employees***" means all Applicable Employees, whom Buyer determines, in its sole discretion, to offer to employ and who accept employment with Buyer or its Affiliates.

(b) As soon as practicable after the date hereof, Seller will provide Buyer with access to all Applicable Employees for the purpose of making offers of employment or offers to become independent contractors, if any, as well as conducting discussions preparatory thereto. On the Closing Date, Seller will terminate the employment of each Applicable Employee who has accepted Buyer's offer of employment or any offer to become an independent contractor and take all such other actions necessary to allow such Applicable Employee and any former employee to work for Buyer or its Affiliates in either such capacity. Seller will also not take any action to prevent Buyer from offering employment or an independent contractor arrangement to any Applicable Employee or former employee of Seller. Notwithstanding the foregoing, nothing in this Agreement will be deemed to require Buyer to hire or engage any Applicable Employee or former employee at all or on any terms.

(c) With respect to any Applicable Employees, Seller will be responsible for and will pay any and all severance, retention, termination and other compensation or benefit payments (if any), damages and costs, and the applicable Taxes related thereto, which are or may become payable, under Law or contract.

(d) Seller will be solely responsible for, and Buyer will not have any Liability with respect to: (i) all compensation and benefits agreements and arrangements that are not included among the Assumed Contracts; (ii) all obligations to employees or former employees of Seller (regardless of if they are Hired Employees); (iii) all employee retirement, health, welfare or benefit plans and programs of Seller; (iv) all obligations with respect to unemployment compensation and workers' compensation from Claims arising on or before the Closing Date out of the Claimant's employment by Seller; and (v) all obligations or liabilities arising under the Worker Adjustment and Retraining Notification Act, including notification requirements to employees and appropriate Governmental Entities.

(e) Notwithstanding anything in this Agreement to the contrary, on and after the Closing Date, Seller and Seller's Affiliates will comply in all respects with the group health plan continuation coverage requirements of COBRA. Without limiting the generality of the foregoing,

Seller and Seller's Affiliates will comply with all COBRA requirements that arise as a result of the Transaction or have arisen prior to the Transaction, including COBRA requirements which could be imposed upon Buyer under current final or proposed regulations. Seller and Seller's Affiliates will make continuation coverage available to all eligible employees or former employees of Seller or Seller's Affiliates, and their respective spouses and dependents, even if Seller or Seller's Affiliates cease to provide group health plan coverage to any employees after the Closing Date.

(f) Seller and each Hired Employee shall terminate, effective as of the Closing Date, any employment agreements or arrangements of any sort between them that are in effect immediately prior to the Closing (and, in each case, shall take such further actions as are necessary to extinguish any rights thereunder that might otherwise survive the termination of the underlying employment agreement or arrangement).

Section 5.16 Enforcement of Rights.

At all times after Closing, upon request from Buyer, Seller will take all reasonable actions to enforce the provisions of any employment, independent contractor or other agreement to which Seller is a party to the extent that Buyer deems it necessary for the protection of Buyer's rights to the Transferred Intellectual Property or any other rights acquired by Buyer hereunder, including, Seller's rights under any non-competition, non-solicitation, non-disclosure, assignment of invention and similar agreements.

Section 5.17 Notices and Consents.

Seller will give any notices to third parties, and will use its best efforts to obtain any third party consents referred to in Schedule 1.1. Each of the Parties will give any notices to, make any filings with, and use its best efforts to obtain any authorizations, consents, and approvals of governments and governmental agencies in connection with the matters referred to in Section 3.3, Section 3.4, and Section 3.17(b) above.

Section 5.18 Notice of Developments.

Seller will give prompt written notice to Buyer of any Material Adverse Effect causing a breach of any of the representations and warranties in Section 3 above. Each Party will give prompt written notice to the others of any Material Adverse Effect causing a breach of any of his or its own representations and warranties in Section 3 or 4 above. No disclosure by any Party pursuant to this section, however, shall be deemed to amend or supplement the disclosure schedule or to prevent or cure any misrepresentation, breach of warranty, or breach of covenant.

Section 5.19 Non-Solicitation

During the twenty-four (24) month period immediately following the Closing Date, without the prior written consent of Buyer, neither Seller nor any Seller Affiliate (which includes each Selling Shareholder) will, directly or indirectly, hire or otherwise use or solicit the services of any Person who then is, or who was during the then-preceding six (6) months, an employee of Buyer or any Subsidiary of Buyer and who was an employee of Seller or any Seller Affiliate thereof immediately prior to Closing.

Section 5.20 Tax Clearances

Within a reasonable time after the Closing Date, Seller, at Seller's expense, shall obtain tax clearance certificates from each U.S. jurisdiction in which Seller files any corporate Tax Returns (to the extent such jurisdiction issues such certificates).

ARTICLE VI. CONDITIONS TO CLOSING

Section 6.1 Conditions to the Obligations of Buyer, Acquisition Sub and Seller.

The obligations of Buyer, Acquisition Sub and Seller to effect Closing are subject to the satisfaction or waiver by Buyer and Seller prior to Closing of each of the following conditions:

(a) ***No Injunctions, Etc.*** No Governmental Entity will have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, or non-appealable judgment, decree, injunction or other final order that is in effect on the Closing Date and prohibits or prevents Closing or the consummation of the Transaction.

Section 6.2 Further Conditions to the Obligation of Buyer and Acquisition Sub.

The obligation of Buyer and Acquisition Sub to effect Closing is subject to the satisfaction by Seller, or a Selling Shareholder, or waiver by Buyer prior to Closing of each of the following further conditions:

(a) ***Representations and Warranties***. The representations and warranties of Seller and each Selling Shareholder contained herein will have been true and correct in all material respects when made, and will be true and correct as of Closing as if made as of Closing (except that representations and warranties that are made as of a specific date need be true and correct only as of such date and except that representations and warranties which are qualified as to materiality shall be true and correct in all respects as made and not subject to a double materiality standard), and Buyer will have received a certificate to such effect dated the Closing Date and executed by a duly authorized officer of Seller and each Selling Shareholder.

(b) ***Covenants***. The covenants and agreements of Seller to be performed prior to Closing will have been duly performed in all material respects, and Buyer will have received a certificate to such effect dated the Closing Date and executed by a duly authorized officer of Seller.

(c) ***Due Authorization.***

(i) Seller's execution, delivery and performance of this Agreement and the Closing Documents and Seller's consummation of the Transaction will have been duly and validly authorized by all necessary corporate action on the part of Seller's board of directors and Buyer will have received the certificate contemplated by Section 6.2(m)(vii) regarding the same.

(ii) Buyer and Acquisition Sub's execution, delivery and performance of this Agreement and the Closing Documents and Buyer's and Acquisition Sub's consummation of the Transaction will have been duly and validly authorized by all necessary corporate action on the part of Buyer and Acquisition Sub's respective board of directors.

(d) ***No Material Adverse Change.*** Between the date hereof and the Closing Date, there will not have occurred any event, condition or change in the operations, condition (financial or otherwise) of the Transferred Assets or the Business that has had, or would at a later date have, a Material Adverse Effect**.**

(e) ***Employees***. Buyer will be satisfied that all Applicable Employees, who Buyer deems necessary for it to exploit the Transferred Assets, have agreed to be employed by Buyer, Acquisition Sub or their Affiliates;

(f) ***Lien Searches and Releases***. Seller will have delivered to Buyer: (i) personal property and Intellectual Property searches, in a form reasonably acceptable to Buyer and dated within a reasonable period of time prior to Closing, listing all Encumbrances or judgments of record affecting the Transferred Assets and (ii) duly executed documents sufficient, when filed or recorded, to release any Encumbrances of any third-party or Affiliate with respect to the Transferred Assets, other than Permitted Encumbrances.

(g) ***Legal Opinion of Seller's Counsel***. On the Closing Date, Buyer shall have received the opinion of Bouza, Klein & Kaminsky, counsel to Seller, in a form reasonably acceptable to Buyer.

(h) ***Seller Required Approvals***. The Seller will have obtained and delivered to Buyer all Approvals listed on Schedule 1.1, each in a form acceptable to Buyer in its sole discretion.

(i) ***Buyer Required Approvals***. The Buyer will have obtained and delivered to Seller all approvals listed on Schedule 4.3.

(j) ***Financing***. Buyer will have obtained financing suitable in form and source and upon terms and conditions satisfactory to Buyer in an amount sufficient to fund Buyer's payment obligations required by Section 2.6 of this Agreement.

(k) ***U.S. Energy Systems, Inc.*** Buyer's acquisition of U.S. Energy Systems, Inc. shall have been completed as of the Closing Date.

(l) ***Due Diligence***. Buyer shall have conducted a satisfactory due diligence review of the Transferred Assets, Assumed Liabilities and other business operations of Seller.

(m) ***Additional Closing Deliveries.*** Seller will have delivered to Buyer the following:

(i) duly executed bills of sale and other appropriate documents of transfer, in form and substance reasonably acceptable to Buyer, transferring to Buyer all tangible personal property included in the Transferred Assets;

(ii) duly executed assignments, in form and substance reasonably acceptable to Buyer, transferring to Buyer all Transferred Intellectual Property;

(iii) Seller shall have obtained and delivered to Buyer a written consent for the assignment of each of the Leases, and a waiver of landlord liens, collateral assignment of lease or

leasehold mortgage from the landlord or other party whose consent thereto is required under such Lease (the "***Lease Consents***"), in form and substance satisfactory to Buyer;

(iv) a balance sheet and profit and loss statement as of and for the fiscal year ended June 30, 2008;

(v) duly executed assignments or, where necessary, subcontracts, subleases or sublicenses, in form and substance reasonably acceptable to Buyer, transferring to Buyer all Assumed Contracts;

(vi) a good standing certificate from the California Secretary of State attesting to the subsistence and good standing of the Seller in such jurisdiction and each jurisdiction in which Seller is qualified to do business, dated no more than ten (10) days prior to the Closing Date;

(vii) a certificate signed by duly authorized officers of Seller and dated the Closing Date certifying to Buyer (A) as to the incumbency and genuineness of the signatures of each officer of Seller executing this Agreement and any Closing Document on behalf of the Seller, and (B) the genuineness of the resolutions (attached thereto) adopted by Seller authorizing the execution, delivery and performance of the Agreement and the Closing Documents and the Seller's consummation of the Transaction; and

(viii) such other instruments or documents, in form and substance reasonably acceptable to Buyer, as may be necessary to effect Closing.

Section 6.3 Further Conditions to the Obligation of Seller.

The obligation of Seller to effect Closing is subject to the satisfaction by Buyer or waiver by Seller prior to Closing of each of the following further conditions:

(a) ***Representations and Warranties***. The representations and warranties of Buyer and Acquisition Sub contained herein will have been true and correct in all material respects when made, and will be true and correct as of Closing as if made as of Closing (except that representations and warranties that are made as of a specific date need be true and correct only as of such date and except that representations and warranties which are qualified as to materiality shall be true and correct in all respects as made and not subject to a double materiality standard), and Seller will have received a certificate to such effect dated the Closing Date and executed by a duly authorized officer of Buyer.

(b) ***Covenants***. The covenants and agreements of Buyer to be performed prior to Closing will have been duly performed in all material respects, and Seller will have received a certificate to such effect dated the Closing Date and executed by a duly authorized officer of Buyer.

(c) ***Payment***. Buyer will have caused the portion of the Purchase Price to be paid at Closing as provided by Section 2.6(a)(i).

(d) ***Legal Opinion of Buyer's Counsel***. On the Closing Date, Seller shall have received the opinion of Harter Secrest & Emery LLP, counsel to Buyer, in a form reasonably acceptable to Seller.

(e) ***Due Authorization***. Buyer and Acquisition Sub's execution, delivery performance of this Agreement and the Closing Documents and Buyer and Acquisition Sub's consummation of the Transaction will have been duly and validly authorized by all necessary corporate action on the part of Buyer and Acquisition Sub's board of directors.

(f) ***Required Approvals***. The Buyer will have obtained and delivered to Seller all approvals listed on Schedule 4.3, each in a form acceptable to Seller in its sole discretion.

(g) ***Additional Closing Deliveries***. Buyer will have delivered to Seller the following:

(i) such duly executed instruments of assumption and other instruments or documents, in form and substance reasonably acceptable to Seller, as may be necessary to effect the assumption by Buyer of the Assumed Liabilities;

(ii) a certificate signed by duly authorized officers of Buyer and dated the Closing Date certifying to Seller (A) as to the incumbency and genuineness of the signatures of each officer of Buyer executing this Agreement and any Closing Document on behalf of the Buyer, and (B) the genuineness of the resolutions (attached thereto) adopted by Buyer authorizing the execution, delivery and performance of the Agreement and the Closing Documents and the Buyer's consummation of the Transaction; and

(iii) such other instruments or documents, in form and substance reasonably acceptable to Seller, as may be necessary to effect Closing.

ARTICLE VII. INDEMNIFICATION

Section 7.1 Indemnification by Seller and Selling Shareholders.

Subject to the further provisions of this Article VII, each of Seller and each Selling Shareholder will jointly and severally indemnify, defend and hold harmless Buyer, Acquisition Sub, Buyer's Affiliates, and their respective directors, officers, attorneys, accountants, agents and employees and their heirs, successors and assigns (collectively, the "***Buyer Indemnified Parties***"), from, against and in respect of all Losses imposed on, sustained, incurred or suffered by or asserted against any of the Buyer Indemnified Parties, directly or indirectly relating to or arising out of any of the following (collectively, "***Buyer Losses***"*):*

(a) any fact or circumstance that constitutes a breach of any representation or warranty of Seller contained herein;

(b) any act or omission that constitutes a breach of any covenant or agreement of Seller contained herein;

(c) any Excluded Liability or any act or omission of Seller prior to Closing that constituted a breach of Seller's obligations under any Assumed Contract or that creates any other Liability to a third party;

(d) Any Claim of any kind by any holder of Seller securities or options to acquire Seller securities;

(e) Except for Assumed Liabilities, any Liability of Seller arising out of the Business or from the Transferred Assets or Hired Employees, that arose or arises on or before Closing or that is attributable to facts and circumstances arising on or before the Closing Date; or

(f) Except for Assumed Liabilities and except as provided in Section 5.9, any Liability of Seller with respect to any of Seller's Taxes for any period on, before or after the Closing.

Section 7.2 Indemnification by Buyer.

Subject to the further provisions of this Article VII, Buyer will indemnify, defend and hold harmless Seller, Selling Shareholders, Seller's Affiliates, and their respective directors, officers, attorneys, accountants, agents and employees), and their heirs, successors and assigns (collectively, the "***Seller Indemnified Parties***"), from, against and in respect of any Losses imposed on, sustained, incurred or suffered by or asserted against any of the Seller Indemnified Parties, directly or indirectly relating to or arising out of any of the following (collectively, "***Seller Losses***"*):*

(a) any fact or circumstance that constitutes a breach of any representation or warranty of Buyer contained herein;

(b) any act or omission that constitute a breach of any covenant or agreement of Buyer contained herein;

(c) any Assumed Liability, but only up to the amount of such Assumed Liability set forth on Schedule 2.5(a) or Schedule 2.5(b); or

(d) any Liability (other than an Excluded Liability) arising from the Transferred Assets or the Hired Employees that arises from and after the Closing Date and is attributable to facts and circumstances arising after the Closing Date.

Section 7.3 Right of Offset.

Seller agrees that any payments which may be due it from Buyer may be used by Buyer at its option, to satisfy any demands for indemnification asserted against Seller under Section 7.1, and that if so used by Buyer, such shall be and constitute a complete and absolute set-off against any such payments which may become due to Seller from Buyer. Notwithstanding the foregoing, Buyer shall not exercise its right of offset hereunder until Buyer has established its right to indemnification in accordance with the procedures of this Article VII.

Section 7.4 Indemnification Procedures.

(a) The Buyer Indemnified Parties' Claims for indemnification under this Article VII will be satisfied first by Buyer's exercise of the right of offset against the Holdback Amount, as provided by Section 7.3 of this Agreement, except that Claims for indemnification arising from actions, suits or other legal proceedings commenced against an Indemnified Party by a third party will instead be resolved as provided by this Section 7.4.

(b) In the event that an Indemnified Party has a Claim for indemnification under this Article VII, or an action, suit or legal proceeding for which an Indemnifying Party would be liable to an Indemnified Party hereunder is commenced against an Indemnified Party by a third party, the Indemnified Party will (but in no event more than thirty (30) days following commencement of any such third party action, suit or other legal proceeding) notify the Indemnifying Party of such Claim and the amount or the estimated amount thereof to the extent then feasible (which estimate will not be conclusive of the final amount of such Claim) (the "***Claim Notice***"); provided, however, that no failure or delay by any Indemnified Party in giving any Claim Notice will relieve any Indemnifying Party from any obligation or liability under this Agreement, except to the extent that the Indemnifying Party is prejudiced by such failure or delay.

(c) The Indemnifying Party will have thirty (30) days from the effective date of the Claim Notice as determined under Section 9.1 of this Agreement (the "***Notice Period***") to notify the Indemnified Party (i) whether or not the Indemnifying Party disputes its liability to the Indemnified Party hereunder with respect to such Claim, and (ii) in the case of a litigated Claim, whether or not it desires to defend the Indemnified Party against such litigated Claim. All reasonable costs and expenses incurred by the Indemnifying Party in defending such litigated Claim and all reasonable costs and expenses of the Indemnified Party incurred prior to the Indemnifying Party assuming such defense will be a Liability of, and will be paid by, the Indemnifying Party.

(d) Except as provided in Section 7.4(e) of this Agreement, in the event that the Indemnifying Party notifies the Indemnified Party within the Notice Period that it desires to defend the Indemnified Party against a litigated Claim, the Indemnifying Party will have the right so to defend the Indemnified Party by appropriate proceedings with counsel of the Indemnifying Party's choosing, and will have the sole power to direct and control such defense. If any Indemnified Party desires to participate in any such defense it may do so at its sole cost and expense.

(e) If the Indemnifying Party elects not to defend the Indemnified Party against a litigated Claim, whether by not giving the Indemnified Party timely notice as provided by Section 7.4(c) of this Agreement or otherwise, then the Indemnified Party will have the right so to defend the litigated Claim by appropriate proceedings with counsel of the Indemnified Party's choosing, and will have the sole power to direct and control such defense. The portion of such litigated Claim as to which the defense by the Indemnified Party is unsuccessful (and the reasonable costs and expenses pertaining to the defense of the entire litigated Claim) will be the Liability of the Indemnifying Party hereunder. The Indemnified Party will use commercially reasonable efforts in the defense of all such litigated Claims subject to the limitations contained in Section 7.4(g) of this Agreement.

(f) Notwithstanding any other provision hereof to the contrary, the Buyer Indemnified Parties may assert against the Holdback Amount its right of offset, in accordance with

Section 7.3 of this Agreement, the following litigated Claims: (i) any litigated Claim against which Seller elects not to defend, as contemplated by Section 7.4(e) of this Agreement; and (ii) the portion of a litigated Claim defended by Seller as to which Seller's defense is unsuccessful.

(g) The Indemnified Party will not settle a litigated Claim without the consent of the Indemnifying Party, which consent will not be unreasonably withheld.

(h) The Indemnifying Party will not settle, compromise or offer to settle or compromise any litigated Claim on a basis that would result in the imposition of a consent order, injunction or decree that would restrict the future activity or conduct of the Indemnified Party or any Affiliate thereof without the consent of the Indemnified Party or any Affiliate thereof, which consent may be withheld for any reason.

(i) To the extent that the Indemnifying Party directs, controls or participates in the defense or settlement of any litigated Claim, the Indemnified Party will give the Indemnifying Party and its counsel, during normal business hours, access to the relevant business records and other documents, and will permit them to consult with the employees and counsel of the Indemnified Party.

(j) All amounts paid by Seller or Buyer, as the case may be, under this Article VII, and all offsets against the Holdback Amount pursuant to Section 7.3 will be treated as adjustments to the Purchase Price for Tax purposes.

Section 7.5 Cap.

The maximum aggregate recovery of the Buyer Indemnified Parties and the Seller Indemnified Parties under this Article VII shall not exceed the Purchase Price.

ARTICLE VIII. TERMINATION

Section 8.1 Termination.

This Agreement may be terminated at any time prior to Closing as follows:

(a) by mutual agreement of Buyer and Seller;

(b) by either Buyer or Seller if: (i) there is in effect any Law that prohibits or prevents Closing, (ii) if Closing would violate any order, decree or judgment of any Governmental Entity; or (iii) if any Governmental Entity issues any order, decree, judgment or ruling or otherwise attempts to prohibit or prevent the Closing or to modify the material terms of the Transaction;

(c) by Seller if, as a result of any action or inaction by Buyer or its Affiliates, Closing has not occurred within thirty (30) days following the date on which all of the conditions to Closing set forth in Section 6.1 and Section 6.2 have become capable of satisfaction (or have been waived);

(d) by Seller in the event Buyer has breached any material representation, warranty, or covenant contained in this Agreement in any material respect, and Seller has notified

Buyer of the breach, and the breach has continued without cure for a period of 10 days after the notice of breach

(e) by Buyer if, as a result of any action or inaction by Seller or its Affiliates, Closing has not occurred within thirty (30) days following the date on which all of the conditions to Closing set forth in Section 6.1 and Section 6.3 have become capable of satisfaction (or have been waived);

(f) by Buyer in the event Seller has breached any material representation, warranty, or covenant contained in this Agreement in any material respect, and Buyer has notified Seller of the breach, and the breach has continued without cure for a period of 10 days after the notice of breach;

(g) by Buyer upon the occurrence of a Material Adverse Effect or any event, condition, change or circumstance that gives rise to a Material Adverse Effect: and

(h) by Buyer or Seller, by giving written notice of such termination to the other party, if Closing has not occurred on or prior to November 12, 2008; provided, however, that the party providing such notice is not in material breach of any of its obligations under this Agreement.

Section 8.2 Effect of Termination.

In the event of the termination of this Agreement, as provided by Section 8.1, this Agreement will thereupon become void and have no effect, and no party will have any Liability to any other party or their respective Affiliates, directors, officers or employees, except for the obligations of the parties contained in this Section 8.2 and in Section 5.6 (Confidentiality), Section 5.7 (Public Disclosure), Section 9.1 (Notices), (a) (Expenses), (b) (Governing Law), Section 9.8 (Submission to Jurisdiction), Section 9.9 (Alternative Dispute Resolution) and Section 9.14 (Entire Agreement) (and any related definitional provisions set forth in Article I), and except that nothing in this Section 8.2 will relieve any party from Liability for any breach of this Agreement that arose prior to such termination, for which Liability the provisions of Article VII will remain in effect in accordance with the provisions and limitations thereof.

ARTICLE IX. MISCELLANEOUS

Section 9.1 Notices.

All notices or other communications given hereunder will be deemed to have been duly given and made if in writing and if served by personal delivery upon the party for whom it is intended, if delivered by registered or certified mail, return receipt requested, or by a nationally recognized, overnight courier service, or if sent by facsimile, provided that the facsimile is promptly confirmed by telephone confirmation thereof, to the party at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such party:

If to Buyer or
Acquisition Sub: Ultralife Corporation
2000 Technology Parkway
Newark, New York 14513

	Attention: General Counsel Fax: (315) 331-7048
with a copy to:	Harter Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, New York 14604-2711 Attention: Jeffrey H. Bowen, Esq. Fax: (585) 232-2152
If to Seller:	<u>before Closing</u>: U.S. Power Services, Inc. 6451 Box Springs Blvd. Riverside, California 92507 Attention: Ken Cotton Fax: (951) 567-7271 <u>after Closing:</u> U.S. Power Services, Inc. 6451 Box Springs Blvd. Riverside, California 92507 Attention: Ken Cotton Fax: (951) 567-7271
in each case with a copy to:	Michael J. Kaminsky, Esq. Bouza, Klein & Kaminsky 950 S. Flower Street Los Angeles, California 90015 Fax: (213) 488-1316

All such notices and other communications shall be deemed to have been given and received effective as of: (i) in the case of personal delivery, on the date of such delivery (ii) in the case of registered or certified mail, return receipt requested, on the third business day after such mail is postmarked; (iii) in the case of a nationally recognized, overnight courier service, on the business day following dispatch; or (iii) in the case of a facsimile, provided that the facsimile is promptly confirmed by telephone confirmation thereof, on the date of such delivery.

Section 9.2 Amendment; Waiver.

Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and signed, in the case of an amendment, by Buyer and Seller, or in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay by any party in exercising any right, power or privilege hereunder will operate as a waiver thereof nor will any

single or partial exercise thereof preclude any other or further exercise of any right, power or privilege.

Section 9.3 No Assignment or Benefit to Third Parties.

No party may assign any of its rights or delegate any of its obligations under this Agreement, by operation of law or otherwise, without the prior written consent of the other party, and any attempt to assign this Agreement without such consent will be void and of no force or effect. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than Buyer, Acquisition Sub, Seller or the Indemnified Parties, or their respective permitted successors or permitted assigns, any rights or remedies under or by reason of this Agreement. Without limiting the generality of the foregoing, nothing in this Agreement creates any rights in any employees or groups of employees.

Section 9.4 Survival.

(a) Except for those representations and warranties of the Seller and Selling Shareholders contained in Section 3.1, Section 3.2, Section 3.3, Section 3.4, Section 3.5, Section 3.7, Section 3.19, Section 3.23 and Section 3.28 of this Agreement, all of the representations and warranties of the Seller and the Selling Shareholders contained in Article III of this Agreement, shall survive the Closing and continue in full force and effect for a period of two years from the Closing Date. This provision shall not extinguish claims that are made within two years of the Closing Date but that remain unresolved on or after the date that is two years after the Closing Date.

(b) All of the representations and warranties of the Seller and Selling Shareholders contained in Section 3.1, Section 3.2, Section 3.3, Section 3.4, Section 3.5, Section 3.7, Section 3.19, Section 3.23 and Section 3.28 of this Agreement shall survive the Closing and continue in full force and effect until the expiration of any applicable statutes of limitations (after giving effect to any extensions or waivers) plus 60 days.

(c) Except for those representations and warranties of the Buyer and Acquisition Sub contained in Section 4.1, Section 4.2, Section 4.3, Section 4.4 and Section 4.5 of this Agreement, all of the representations and warranties of the Seller and the Selling Shareholders contained in Article IV of this Agreement, shall survive the Closing and continue in full force and effect for a period of two years from the Closing Date. This provision shall not extinguish claims that are made within two years of the Closing Date but that remain unresolved on or after the date that is two years after the Closing Date.

(d) All of the representations and warranties of the Buyer and Acquisition Sub contained in Section 4.1, Section 4.2, Section 4.3, Section 4.4 and Section 4.5 of this Agreement shall survive the Closing and continue in full force and effect until the expiration of any applicable statutes of limitations (after giving effect to any extensions or waivers) plus 60 days.

(e) If notice of any claim for indemnification has been timely given, then such claim for indemnification, and the underlying representations, warranties, covenants or agreements, and the indemnification obligations that are the subject thereof, will survive until such time as such claim is finally resolved.

Section 9.5 Expenses.

Except as otherwise expressly provided in Article VII of this Agreement, whether or not the Transaction is consummated, all costs and expenses incurred in connection with this Agreement and the Transaction will be borne by the party incurring the same.

Section 9.6 Schedules, Exhibits, Etc.

(a) Each schedule, exhibit (when and as executed), certificate provided hereunder and written disclosure required hereby is incorporated by reference into this Agreement and will be considered a part hereof as if set forth herein in full; provided, however, that information set forth on any schedule, certification or written disclosure constitutes a representation and warranty of the party providing the same, and not the mutual agreement of the parties as to the facts therein stated. The contents of the schedules will not vary, change or alter the language or substance of the representations and warranties contained in this Agreement. Each Schedule is annexed hereto on the date hereof and, if Buyer consents, will be updated as necessary or amended on or before the Closing Date. Unless otherwise specifically noted herein, all schedules shall be deemed the sole responsibility, obligation, disclosure and work-product of Seller.

(b) No representation or warranty of Seller or the Selling Shareholders contained in this Agreement shall be affected or deemed waived or otherwise impaired or limited by reason of any investigation or due diligence conducted by Buyer or its representatives, except that no claim for indemnity under Article VII of this Agreement for a breach of a particular representation, warranty or covenant shall be made after the Closing if the Buyer had Knowledge before the Closing Date of any facts, events or circumstances that would cause the particular representation or warranty of Seller to be untrue.

Section 9.7 Governing Law.

This Agreement will be governed by and construed in accordance with the Laws of the State of New York without regard to its principles of conflicts of laws.

Section 9.8 Submission to Jurisdiction.

Each of the Parties submits to the jurisdiction of any state or federal court having jurisdiction in Wayne County, New York, in any action or proceeding arising out of or relating to this Agreement and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each Party also agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court. Each of the Parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety, or other security that might be required of any other Party with respect thereto. Each Party agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment or in any other manner provided by law or at equity.

Section 9.9 Alternate Dispute Resolution.

If any dispute arises between the Parties regarding this Agreement, any Closing Document or the Transaction (other than a dispute relating to Intellectual Property which the parties reserve all

rights to litigate, or otherwise address as they may agree at the time such dispute arises), John D. Kavazanjian, on behalf of Buyer, and Ken Cotton, on behalf of Seller, or their respective designees, will attempt in good faith to resolve the dispute. They will meet, in person or by other means mutually satisfactory to them, to attempt to resolve the dispute within fifteen (15) days after reference of the matter to them. If they reach a decision within such fifteen (15) day period, their decision will be final and binding on the parties for all purposes. If they fail to resolve the dispute within such period, Buyer and Seller may, if they then so agree, refer the matter for arbitration on such terms as they may then agree or, failing that, proceed to litigation.

Section 9.10 Specific Performance.

Each Party acknowledges and agrees that the other Parties would be damaged irreparably in the event any provision of this Agreement is not performed in accordance with its specific terms or otherwise is breached, so that a Party shall be entitled to injunctive relief to prevent breaches of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in addition to any other remedy to which such Party may be entitled, at law or in equity. In particular, the Parties acknowledge that the business of Seller is unique and recognize and affirm that in the event Seller breaches this Agreement, money damages would be inadequate and Buyer would have no adequate remedy at law, so that Buyer shall have the right, in addition to any other rights and remedies existing in its favor, to enforce its rights and the other Parties' obligations hereunder not only by action for damages but also by action for specific performance, injunctive, and/or other equitable relief.

Section 9.11 Remedies Cumulative.

The various rights and remedies herein provided will be cumulative and not exclusive of any other rights or remedies herein provided or any rights or remedies provided by Law.

Section 9.12 Inferences.

Inasmuch as this Agreement is the result of negotiations between sophisticated parties of equal bargaining power represented by counsel, no inference in favor of or against either party will be drawn from the fact that any portion of this Agreement has been drafted by or on behalf of such party.

Section 9.13 Severability.

The provisions of this Agreement will be deemed severable and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision will be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances will not be affected by such invalidity or unenforceability, nor will such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

Section 9.14 Entire Agreement.

This Agreement, including the Exhibits, the Schedules and the other Closing Documents contain the entire agreement between the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, oral or written, with respect to such matters.

Section 9.15 Headings.

The heading references herein and any tables of contents, indexes or similar items hereto are for convenience purposes only, do not constitute a part of this Agreement, and will not be deemed to limit or affect any of the provisions hereof.

Section 9.16 Counterparts.

This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and all of which will constitute one and the same Agreement.

Section 9.17 Facsimiles.

The parties agree that facsimile copies of signatures shall be deemed originals for all purposes hereof and that a party may produce such copies, without the need to produce original signatures, to prove the existence of this Agreement in any proceeding brought hereunder.

[*The signatures of the parties appear on the next page*.]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first above written.

BUYER:

Ultralife Corporation

/s/ Phil A. Fain
Signature

Phil A. Fain
Print Name

Vice President Business Development
Title

SELLER:

U.S. Power Services, Inc.

/s/ Ken Cotton
Signature

Ken Cotton
Print Name

President
Title

ACQUISITION SUB:

STATIONARY POWER SERVICES, INC.

/s/ Robert W. Fishback
Signature

Robert W. Fishback
Print Name

Treasurer
Title

SELLING SHAREHOLDERS

/s/ Ken Cotton
Ken Cotton

/s/ Shawn O'Connell
Shawn O'Connell

/s/ Simon Baitler
Simon Baitler

[*Signature Page to Asset Purchase Agreement*]

Exhibit 10.36

AMENDMENT TO EMPLOYMENT AGREEMENT

THIS AMENDMENT TO EMPLOYMENT AGREEMENT (this “Amendment”) is entered into as of December 31, 2008 by and between John D. Kavanjian, an individual (the “Executive”) and Ultralife Corporation, a Delaware corporation (the “Company”).

WHEREAS, the Company and the Executive entered into the Employment Agreement, effective as of January 1, 2007 (the “Agreement”); and

WHEREAS, Section 409A of the Internal Revenue Code of 1986, as amended (the “Code”), and the Treasury Regulations and other official guidance issued thereunder (collectively, “Section 409A”), require that the Company’s compensation and benefit arrangements be in documentary compliance with Section 409A on or before December 31, 2008, and this requires amendments to the Agreement as set forth more fully below.

NOW, THEREFORE, the Company and the Executive hereby agree that the Agreement is amended as follows:

1. In Section 3, the initial salary amount is amended to read “$350,000” and “2007” is replaced with “2008”.

2. The following is appended to the end of Section 4:

Bonuses shall be paid in accordance with the guidelines set forth under the bonus program but in all events a bonus shall be paid between January 1 and December 31 of the year following the year in which the bonus is earned.

3. Section 6(b) is amended to read as follows:

Involuntary Termination. If at any time during the term of this Agreement, other than following a Change in Control to which Section 6(c) applies, the Company terminates the employment of Executive without Business Reasons or a Constructive Termination occurs, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company’s vacation policies then in effect) through the Termination Date plus continued salary for a period of twenty-four (24) months following the Termination Date, payable in accordance with the Company’s regular payroll schedule as in effect from time to time, (ii) an amount equal to the average of the bonuses paid to Executive during the two preceding fiscal years or, if no bonuses were paid during such period, an amount equal to Executive’s then current annual target bonus, to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration of vesting of all outstanding stock options, and other equity arrangements subject to vesting and held by Executive subject

to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of 18 months after the Termination Date or such longer period as may be applicable under the Company's policies then in effect, provided the Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control.

4. Section 6(c)(i) is amended to read as follows:

Benefits. If at any time during the term of this Agreement a "Change in Control" occurs (as defined below), and the Company terminates the employment of Executive without Business Reasons or a Constructive Termination occurs within eighteen (18) months of the date of the Change in Control, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company's vacation policies then in effect) through the Termination Date plus an amount equal to twenty-four (24) months of Executive's salary as then in effect, payable immediately upon the Termination Date, (ii) an amount equal to the greater of the average of the bonuses paid to Executive during the two preceding fiscal years or Executive's then current annual target bonus, to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration in full of vesting of all outstanding stock options, and other equity arrangements subject to vesting and held by Executive (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of eighteen (18) months after the Termination Date or such longer period as may be applicable under the Company's policies then in effect, provided Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits. Payment of benefits shall be accelerated upon a Change in Control only if such Change in Control constitutes a "change in control" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations and official guidance issued thereunder (collectively "Section

409A”). If acceleration is not permissible, payment will be made at the time provided under Section 6(b).

5. Section 6(d) is amended to read as follows:

Termination for Disability. If at any time during the term of this Agreement, other than following a Change in Control to which Section 6(c) applies, Executive shall become unable to perform his duties as an employee as a result of incapacity, which gives rise to termination of employment for Disability, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company’s vacation policies then in effect) through the Termination Date plus continued salary for a period of twenty-four (24) months following the Termination Date, payable in accordance with the Company’s regular payroll schedule as in effect from time to time, (ii) an amount equal to the annual target bonus for the fiscal year in which the Termination Date occurs (plus any unpaid bonus from the prior fiscal year), to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration in full of vesting of all outstanding stock options held by Executive subject to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive’s spouse and any dependent children, at Executive’s cost, for a period of 18 months after the Termination Date, or such longer period as may be applicable under the Company’s policies then in effect, provided Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control. Notwithstanding the foregoing, however, the Company may deduct from the salary specified in clause (i) hereof the amount of any payments then received by Executive under any disability benefit program maintained by the Company to the extent permissible under Section 409A.

6. Section 6(e) is amended to read as follows:

Voluntary Termination or Involuntary Termination for Business Reasons. If (A) Executive voluntarily terminates his employment (other than in the case of a Constructive Termination), or (B) Executive is terminated involuntarily for Business Reasons, then in any such event Executive or his representatives shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company’s

vacation policies then in effect) through the Termination Date only, (ii) the right to exercise, for thirty (30) days following the Termination Date, or through the original expiration date of the stock options, if earlier, all stock options held by Executive, but only to the extent vested as of the Termination Date, (iii) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of eighteen (18) months after the Termination Date, or such longer period as may be applicable under the Company's policies then in effect, provided Executive makes the appropriate election and payments, and (iv) no other compensation, severance, or other benefits.

7. Section 6(f) is amended to read as follows:

Termination Upon Death. If Executive's employment is terminated because of death, then Executive's representatives shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company's vacation policies then in effect) through the Termination Date, (ii) an amount equal to the annual target bonus for the fiscal year in which the Termination Date occurs (plus any unpaid bonus from the prior fiscal year), to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) except in the case of any such termination following a Change in Control to which Section 6(c) applies, acceleration in full of vesting of all outstanding stock options, and other equity arrangements subject to vesting and held by Executive subject to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive's spouse and any dependent children, at their cost, for a period of eighteen (18) months after the Termination Date, or such longer period as may be applicable under the Company's policies then in effect provided Executive's estate makes the appropriate election and payments, (v) any benefits payable to Executive or his representatives upon death under insurance or other programs maintained by the Company for the benefit of the Executive, and (vi) no further benefits or other compensation, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control.

8. A new Section 6(h) is added to read as follows:

Termination. The word "termination" and any variant thereof with respect to the Executive's employment shall mean a "separation from service"

within the meaning provided by Section 409A. Payments provided for under this Section 6 are contingent upon a termination satisfying this definition.

9. A new Section 9(l) is added to read as follows:

Six Month Waiting Period. Notwithstanding anything to the contrary, to the extent that any payments under this Agreement are subject to a six-month waiting period under Section 409A, any such payments that would be payable before the expiration of six months following the Executive's separation from service but for the operation of this sentence shall be made during the seventh month following the Executive's separation from service.

10. A new Section 9(m) is added to read as follows:

Reimbursement of Expenses. Reimbursements under this Agreement shall only be made for expenses incurred during the term of this Agreement. Any reimbursements made under this Agreement shall be made by the end of the year following the year in which the expense was incurred, and the amount of the reimbursable expenses or in-kind benefits provided in one year shall not increase or decrease the amount of reimbursable expenses or in-kind benefits provided in a subsequent year. In order to receive reimbursements under this Agreement, the Executive shall provide any required supporting documentation by a date reasonably specified by the Company in accordance with the deadlines set forth in this section.

11. A new Section 9(n) is added to read as follows:

Section 409A of the Code. It is intended that the payments and benefits provided for by this Agreement comply with the requirements of Section 409A, and this Agreement shall be administered and interpreted in a manner consistent with such intention.

[signature page follows]

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year first above written.

Ultralife Corporation

By: /s/ Daniel W. Christman
Daniel W. Christman
Chair of Compensation and Management Committee

John D. Kavazanjian

/s/ John D. Kavazanjian
John D. Kavazanjian

AMENDMENT TO EMPLOYMENT AGREEMENT

THIS AMENDMENT TO EMPLOYMENT AGREEMENT (this "Amendment") is entered into as of December 31, 2008 by and between William A. Schmitz, an individual (the "Executive") and Ultralife Corporation, a Delaware corporation (the "Company").

WHEREAS, the Company and the Executive entered into the Employment Agreement, effective as of January 1, 2007 (the "Agreement"); and

WHEREAS, Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations and other official guidance issued thereunder (collectively, "Section 409A"), require that the Company's compensation and benefit arrangements be in documentary compliance with Section 409A on or before December 31, 2008, and this requires amendments to the Agreement as set forth more fully below.

NOW, THEREFORE, the Company and the Executive hereby agree that the Agreement is amended as follows:

1. In Section 3, the initial salary amount is amended to read "$265,000" and "2007" is replaced with "2008".

2. The following is appended to the end of Section 4:

> Bonuses shall be paid in accordance with the guidelines set forth under the bonus program but in all events a bonus shall be paid between January 1 and December 31 of the year following the year in which the bonus is earned.

3. Section 6(b) is amended to read as follows:

> Involuntary Termination. If at any time during the term of this Agreement, other than following a Change in Control to which Section 6(c) applies, the Company terminates the employment of Executive without Business Reasons or a Constructive Termination occurs, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company's vacation policies then in effect) through the Termination Date plus continued salary for a period of eighteen (18) months following the Termination Date, payable in accordance with the Company's regular payroll schedule as in effect from time to time, (ii) an amount equal to the average of the bonuses paid to Executive during the two preceding fiscal years or, if no bonuses were paid during such period, an amount equal to Executive's then current annual target bonus, to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration of vesting of all outstanding stock options, and

other equity arrangements subject to vesting and held by Executive subject to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of 18 months after the Termination Date or such longer period as may be applicable under the Company's policies then in effect, provided the Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control.

4. Section 6(c)(i) is amended to read as follows:

Benefits. If at any time during the term of this Agreement a "Change in Control" occurs (as defined below), and the Company terminates the employment of Executive without Business Reasons or a Constructive Termination occurs within eighteen (18) months of the date of the Change in Control, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company's vacation policies then in effect) through the Termination Date plus an amount equal to eighteen (18) months of Executive's salary as then in effect, payable immediately upon the Termination Date, (ii) an amount equal to the greater of the average of the bonuses paid to Executive during the two preceding fiscal years or Executive's then current annual target bonus, to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration in full of vesting of all outstanding stock options, and other equity arrangements subject to vesting and held by Executive (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of eighteen (18) months after the Termination Date or such longer period as may be applicable under the Company's policies then in effect, provided Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits. Payment of benefits shall be accelerated upon a Change in Control only if such Change in Control constitutes a "change in control" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations and official guidance issued thereunder (collectively "Section

409A”). If acceleration is not permissible, payment will be made at the time provided under Section 6(b).

5. Section 6(d) is amended to read as follows:

Termination for Disability. If at any time during the term of this Agreement, other than following a Change in Control to which Section 6(c) applies, Executive shall become unable to perform his duties as an employee as a result of incapacity, which gives rise to termination of employment for Disability, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company’s vacation policies then in effect) through the Termination Date plus continued salary for a period of eighteen (18) months following the Termination Date, payable in accordance with the Company’s regular payroll schedule as in effect from time to time, (ii) an amount equal to the annual target bonus for the fiscal year in which the Termination Date occurs (plus any unpaid bonus from the prior fiscal year), to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration in full of vesting of all outstanding stock options held by Executive subject to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive’s spouse and any dependent children, at Executive’s cost, for a period of 18 months after the Termination Date, or such longer period as may be applicable under the Company’s policies then in effect, provided Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control. Notwithstanding the foregoing, however, the Company may deduct from the salary specified in clause (i) hereof the amount of any payments then received by Executive under any disability benefit program maintained by the Company to the extent permissible under Section 409A.

6. Section 6(e) is amended to read as follows:

Voluntary Termination or Involuntary Termination for Business Reasons. If (A) Executive voluntarily terminates his employment (other than in the case of a Constructive Termination), or (B) Executive is terminated involuntarily for Business Reasons, then in any such event Executive or his representatives shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company’s

vacation policies then in effect) through the Termination Date only, (ii) the right to exercise, for thirty (30) days following the Termination Date, or through the original expiration date of the stock options, if earlier, all stock options held by Executive, but only to the extent vested as of the Termination Date, (iii) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of eighteen (18) months after the Termination Date, or such longer period as may be applicable under the Company's policies then in effect, provided Executive makes the appropriate election and payments, and (iv) no other compensation, severance, or other benefits.

7. Section 6(f) is amended to read as follows:

Termination Upon Death. If Executive's employment is terminated because of death, then Executive's representatives shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company's vacation policies then in effect) through the Termination Date, (ii) an amount equal to the annual target bonus for the fiscal year in which the Termination Date occurs (plus any unpaid bonus from the prior fiscal year), to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) except in the case of any such termination following a Change in Control to which Section 6(c) applies, acceleration in full of vesting of all outstanding stock options, and other equity arrangements subject to vesting and held by Executive subject to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive's spouse and any dependent children, at their cost, for a period of eighteen (18) months after the Termination Date, or such longer period as may be applicable under the Company's policies then in effect provided Executive's estate makes the appropriate election and payments, (v) any benefits payable to Executive or his representatives upon death under insurance or other programs maintained by the Company for the benefit of the Executive, and (vi) no further benefits or other compensation, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control.

8. A new Section 6(h) is added to read as follows:

Termination. The word "termination" and any variant thereof with respect to the Executive's employment shall mean a "separation from service"

within the meaning provided by Section 409A. Payments provided for under this Section 6 are contingent upon a termination satisfying this definition.

9. A new Section 9(l) is added to read as follows:

Six Month Waiting Period. Notwithstanding anything to the contrary, to the extent that any payments under this Agreement are subject to a six-month waiting period under Section 409A, any such payments that would be payable before the expiration of six months following the Executive's separation from service but for the operation of this sentence shall be made during the seventh month following the Executive's separation from service.

10. A new Section 9(m) is added to read as follows:

Reimbursement of Expenses. Reimbursements under this Agreement shall only be made for expenses incurred during the term of this Agreement. Any reimbursements made under this Agreement shall be made by the end of the year following the year in which the expense was incurred, and the amount of the reimbursable expenses or in-kind benefits provided in one year shall not increase or decrease the amount of reimbursable expenses or in-kind benefits provided in a subsequent year. In order to receive reimbursements under this Agreement, the Executive shall provide any required supporting documentation by a date reasonably specified by the Company in accordance with the deadlines set forth in this section.

11. A new Section 9(n) is added to read as follows:

Section 409A of the Code. It is intended that the payments and benefits provided for by this Agreement comply with the requirements of Section 409A, and this Agreement shall be administered and interpreted in a manner consistent with such intention.

[signature page follows]

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year first above written.

ULTRALIFE CORPORATION

By: /s/ John D. Kavazanjian
John D. Kavazanjian
President and Chief Executive Officer

WILLIAM A. SCHMITZ

/s/ William A. Schmitz
William A. Schmitz

Exhibit 10.38

AMENDMENT TO EMPLOYMENT AGREEMENT

THIS AMENDMENT TO EMPLOYMENT AGREEMENT (this “Amendment”) is entered into as of December 31, 2008 by and between Robert W. Fishback, an individual (the “Executive”) and Ultralife Corporation, a Delaware corporation (the “Company”).

WHEREAS, the Company and the Executive entered into the Employment Agreement, effective as of January 1, 2007 (the “Agreement”); and

WHEREAS, Section 409A of the Internal Revenue Code of 1986, as amended (the “Code”), and the Treasury Regulations and other official guidance issued thereunder (collectively, “Section 409A”), require that the Company’s compensation and benefit arrangements be in documentary compliance with Section 409A on or before December 31, 2008, and this requires amendments to the Agreement as set forth more fully below.

NOW, THEREFORE, the Company and the Executive hereby agree that the Agreement is amended as follows:

1. In Section 3, the initial salary amount is amended to read “$220,000” and “2007” is replaced with “2008”.

2. The following is appended to the end of Section 4:

Bonuses shall be paid in accordance with the guidelines set forth under the bonus program but in all events a bonus shall be paid between January 1 and December 31 of the year following the year in which the bonus is earned.

3. Section 6(b) is amended to read as follows:

Involuntary Termination. If at any time during the term of this Agreement, other than following a Change in Control to which Section 6(c) applies, the Company terminates the employment of Executive without Business Reasons or a Constructive Termination occurs, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company’s vacation policies then in effect) through the Termination Date plus continued salary for a period of eighteen (18) months following the Termination Date, payable in accordance with the Company’s regular payroll schedule as in effect from time to time, (ii) an amount equal to the average of the bonuses paid to Executive during the two preceding fiscal years or, if no bonuses were paid during such period, an amount equal to Executive’s then current annual target bonus, to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration of vesting of all outstanding stock options, and

other equity arrangements subject to vesting and held by Executive subject to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of 18 months after the Termination Date or such longer period as may be applicable under the Company's policies then in effect, provided the Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control.

4. Section 6(c)(i) is amended to read as follows:

Benefits. If at any time during the term of this Agreement a "Change in Control" occurs (as defined below), and the Company terminates the employment of Executive without Business Reasons or a Constructive Termination occurs within eighteen (18) months of the date of the Change in Control, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company's vacation policies then in effect) through the Termination Date plus an amount equal to eighteen (18) months of Executive's salary as then in effect, payable immediately upon the Termination Date, (ii) an amount equal to the greater of the average of the bonuses paid to Executive during the two preceding fiscal years or Executive's then current annual target bonus, to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration in full of vesting of all outstanding stock options, and other equity arrangements subject to vesting and held by Executive (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of eighteen (18) months after the Termination Date or such longer period as may be applicable under the Company's policies then in effect, provided Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits. Payment of benefits shall be accelerated upon a Change in Control only if such Change in Control constitutes a "change in control" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations and official guidance issued thereunder (collectively "Section

409A”). If acceleration is not permissible, payment will be made at the time provided under Section 6(b).

5. Section 6(d) is amended to read as follows:

Termination for Disability. If at any time during the term of this Agreement, other than following a Change in Control to which Section 6(c) applies, Executive shall become unable to perform his duties as an employee as a result of incapacity, which gives rise to termination of employment for Disability, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company’s vacation policies then in effect) through the Termination Date plus continued salary for a period of eighteen (18) months following the Termination Date, payable in accordance with the Company’s regular payroll schedule as in effect from time to time, (ii) an amount equal to the annual target bonus for the fiscal year in which the Termination Date occurs (plus any unpaid bonus from the prior fiscal year), to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration in full of vesting of all outstanding stock options held by Executive subject to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive’s spouse and any dependent children, at Executive’s cost, for a period of 18 months after the Termination Date, or such longer period as may be applicable under the Company’s policies then in effect, provided Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control. Notwithstanding the foregoing, however, the Company may deduct from the salary specified in clause (i) hereof the amount of any payments then received by Executive under any disability benefit program maintained by the Company to the extent permissible under Section 409A.

6. Section 6(e) is amended to read as follows:

Voluntary Termination or Involuntary Termination for Business Reasons. If (A) Executive voluntarily terminates his employment (other than in the case of a Constructive Termination), or (B) Executive is terminated involuntarily for Business Reasons, then in any such event Executive or his representatives shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company’s

vacation policies then in effect) through the Termination Date only, (ii) the right to exercise, for thirty (30) days following the Termination Date, or through the original expiration date of the stock options, if earlier, all stock options held by Executive, but only to the extent vested as of the Termination Date, (iii) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of eighteen (18) months after the Termination Date, or such longer period as may be applicable under the Company's policies then in effect, provided Executive makes the appropriate election and payments, and (iv) no other compensation, severance, or other benefits.

7. Section 6(f) is amended to read as follows:

Termination Upon Death. If Executive's employment is terminated because of death, then Executive's representatives shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company's vacation policies then in effect) through the Termination Date, (ii) an amount equal to the annual target bonus for the fiscal year in which the Termination Date occurs (plus any unpaid bonus from the prior fiscal year), to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) except in the case of any such termination following a Change in Control to which Section 6(c) applies, acceleration in full of vesting of all outstanding stock options, and other equity arrangements subject to vesting and held by Executive subject to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive's spouse and any dependent children, at their cost, for a period of eighteen (18) months after the Termination Date, or such longer period as may be applicable under the Company's policies then in effect provided Executive's estate makes the appropriate election and payments, (v) any benefits payable to Executive or his representatives upon death under insurance or other programs maintained by the Company for the benefit of the Executive, and (vi) no further benefits or other compensation, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control.

8. A new Section 6(h) is added to read as follows:

Termination. The word "termination" and any variant thereof with respect to the Executive's employment shall mean a "separation from service"

within the meaning provided by Section 409A. Payments provided for under this Section 6 are contingent upon a termination satisfying this definition.

9. A new Section 9(l) is added to read as follows:

Six Month Waiting Period. Notwithstanding anything to the contrary, to the extent that any payments under this Agreement are subject to a six-month waiting period under Section 409A, any such payments that would be payable before the expiration of six months following the Executive's separation from service but for the operation of this sentence shall be made during the seventh month following the Executive's separation from service.

10. A new Section 9(m) is added to read as follows:

Reimbursement of Expenses. Reimbursements under this Agreement shall only be made for expenses incurred during the term of this Agreement. Any reimbursements made under this Agreement shall be made by the end of the year following the year in which the expense was incurred, and the amount of the reimbursable expenses or in-kind benefits provided in one year shall not increase or decrease the amount of reimbursable expenses or in-kind benefits provided in a subsequent year. In order to receive reimbursements under this Agreement, the Executive shall provide any required supporting documentation by a date reasonably specified by the Company in accordance with the deadlines set forth in this section.

11. A new Section 9(n) is added to read as follows:

Section 409A of the Code. It is intended that the payments and benefits provided for by this Agreement comply with the requirements of Section 409A, and this Agreement shall be administered and interpreted in a manner consistent with such intention.

[signature page follows]

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year first above written.

ULTRALIFE CORPORATION

By: /s/ John D. Kavazanjian
John D. Kavazanjian
President and Chief Executive Officer

ROBERT W. FISHBACK

/s/ Robert W. Fishback
Robert W. Fishback

AMENDMENT TO EMPLOYMENT AGREEMENT

THIS AMENDMENT TO EMPLOYMENT AGREEMENT (this “Amendment”) is entered into as of December 31, 2008 by and between Peter F. Comerford, an individual (the “Executive”) and Ultralife Corporation, a Delaware corporation (the “Company”).

WHEREAS, the Company and the Executive entered into the Employment Agreement, effective as of January 1, 2007 (the “Agreement”); and

WHEREAS, Section 409A of the Internal Revenue Code of 1986, as amended (the “Code”), and the Treasury Regulations and other official guidance issued thereunder (collectively, “Section 409A”), require that the Company’s compensation and benefit arrangements be in documentary compliance with Section 409A on or before December 31, 2008, and this requires amendments to the Agreement as set forth more fully below.

NOW, THEREFORE, the Company and the Executive hereby agree that the Agreement is amended as follows:

1. In Section 3, the initial salary amount is amended to read “$190,000” and “2007” is replaced with “2008”.

2. The following is appended to the end of Section 4:

Bonuses shall be paid in accordance with the guidelines set forth under the bonus program but in all events a bonus shall be paid between January 1 and December 31 of the year following the year in which the bonus is earned.

3. Section 6(b) is amended to read as follows:

Involuntary Termination. If at any time during the term of this Agreement, other than following a Change in Control to which Section 6(c) applies, the Company terminates the employment of Executive without Business Reasons or a Constructive Termination occurs, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company’s vacation policies then in effect) through the Termination Date plus continued salary for a period of eighteen (18) months following the Termination Date, payable in accordance with the Company’s regular payroll schedule as in effect from time to time, (ii) an amount equal to the average of the bonuses paid to Executive during the two preceding fiscal years or, if no bonuses were paid during such period, an amount equal to Executive’s then current annual target bonus, to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration of vesting of all outstanding stock options, and

other equity arrangements subject to vesting and held by Executive subject to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of 18 months after the Termination Date or such longer period as may be applicable under the Company's policies then in effect, provided the Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control.

4. Section 6(c)(i) is amended to read as follows:

Benefits. If at any time during the term of this Agreement a "Change in Control" occurs (as defined below), and the Company terminates the employment of Executive without Business Reasons or a Constructive Termination occurs within eighteen (18) months of the date of the Change in Control, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company's vacation policies then in effect) through the Termination Date plus an amount equal to eighteen (18) months of Executive's salary as then in effect, payable immediately upon the Termination Date, (ii) an amount equal to the greater of the average of the bonuses paid to Executive during the two preceding fiscal years or Executive's then current annual target bonus, to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration in full of vesting of all outstanding stock options, and other equity arrangements subject to vesting and held by Executive (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of eighteen (18) months after the Termination Date or such longer period as may be applicable under the Company's policies then in effect, provided Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits. Payment of benefits shall be accelerated upon a Change in Control only if such Change in Control constitutes a "change in control" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations and official guidance issued thereunder (collectively "Section

409A”). If acceleration is not permissible, payment will be made at the time provided under Section 6(b).

5. Section 6(d) is amended to read as follows:

Termination for Disability. If at any time during the term of this Agreement, other than following a Change in Control to which Section 6(c) applies, Executive shall become unable to perform his duties as an employee as a result of incapacity, which gives rise to termination of employment for Disability, then Executive shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company’s vacation policies then in effect) through the Termination Date plus continued salary for a period of eighteen (18) months following the Termination Date, payable in accordance with the Company’s regular payroll schedule as in effect from time to time, (ii) an amount equal to the annual target bonus for the fiscal year in which the Termination Date occurs (plus any unpaid bonus from the prior fiscal year), to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) acceleration in full of vesting of all outstanding stock options held by Executive subject to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive’s spouse and any dependent children, at Executive’s cost, for a period of 18 months after the Termination Date, or such longer period as may be applicable under the Company’s policies then in effect, provided Executive makes the appropriate election and payments, and (v) no other compensation, severance or other benefits, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control. Notwithstanding the foregoing, however, the Company may deduct from the salary specified in clause (i) hereof the amount of any payments then received by Executive under any disability benefit program maintained by the Company to the extent permissible under Section 409A.

6. Section 6(e) is amended to read as follows:

Voluntary Termination or Involuntary Termination for Business Reasons. If (A) Executive voluntarily terminates his employment (other than in the case of a Constructive Termination), or (B) Executive is terminated involuntarily for Business Reasons, then in any such event Executive or his representatives shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company’s

vacation policies then in effect) through the Termination Date only, (ii) the right to exercise, for thirty (30) days following the Termination Date, or through the original expiration date of the stock options, if earlier, all stock options held by Executive, but only to the extent vested as of the Termination Date, (iii) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive, Executive's spouse and any dependent children, at Executive's cost, for a period of eighteen (18) months after the Termination Date, or such longer period as may be applicable under the Company's policies then in effect, provided Executive makes the appropriate election and payments, and (iv) no other compensation, severance, or other benefits.

7. Section 6(f) is amended to read as follows:

Termination Upon Death. If Executive's employment is terminated because of death, then Executive's representatives shall be entitled to receive the following: (i) salary and the cash value of any accrued vacation (consistent with the Company's vacation policies then in effect) through the Termination Date, (ii) an amount equal to the annual target bonus for the fiscal year in which the Termination Date occurs (plus any unpaid bonus from the prior fiscal year), to be paid between January 1 and December 31 of the year following the year in which the termination occurs, (iii) except in the case of any such termination following a Change in Control to which Section 6(c) applies, acceleration in full of vesting of all outstanding stock options, and other equity arrangements subject to vesting and held by Executive subject to the provision, however, that the acceleration shall not cover more than two (2) years from the Termination Date (and in this regard, all such options and other exercisable rights held by Executive shall remain exercisable for one year following the Termination Date, or through the original expiration date of the stock options or other exercisable rights, if earlier), (iv) to the extent COBRA shall be applicable to the Company, continuation of health benefits for Executive's spouse and any dependent children, at their cost, for a period of eighteen (18) months after the Termination Date, or such longer period as may be applicable under the Company's policies then in effect provided Executive's estate makes the appropriate election and payments, (v) any benefits payable to Executive or his representatives upon death under insurance or other programs maintained by the Company for the benefit of the Executive, and (vi) no further benefits or other compensation, except only that this provision shall not limit any benefits otherwise available to Executive under Section 6(c) in the case of a termination following a Change in Control.

8. A new Section 6(h) is added to read as follows:

Termination. The word "termination" and any variant thereof with respect to the Executive's employment shall mean a "separation from service"

within the meaning provided by Section 409A. Payments provided for under this Section 6 are contingent upon a termination satisfying this definition.

9. A new Section 9(l) is added to read as follows:

Six Month Waiting Period. Notwithstanding anything to the contrary, to the extent that any payments under this Agreement are subject to a six-month waiting period under Section 409A, any such payments that would be payable before the expiration of six months following the Executive's separation from service but for the operation of this sentence shall be made during the seventh month following the Executive's separation from service.

10. A new Section 9(m) is added to read as follows:

Reimbursement of Expenses. Reimbursements under this Agreement shall only be made for expenses incurred during the term of this Agreement. Any reimbursements made under this Agreement shall be made by the end of the year following the year in which the expense was incurred, and the amount of the reimbursable expenses or in-kind benefits provided in one year shall not increase or decrease the amount of reimbursable expenses or in-kind benefits provided in a subsequent year. In order to receive reimbursements under this Agreement, the Executive shall provide any required supporting documentation by a date reasonably specified by the Company in accordance with the deadlines set forth in this section.

11. A new Section 9(n) is added to read as follows:

Section 409A of the Code. It is intended that the payments and benefits provided for by this Agreement comply with the requirements of Section 409A, and this Agreement shall be administered and interpreted in a manner consistent with such intention.

[signature page follows]

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by its duly authorized officer, as of the day and year first above written.

ULTRALIFE CORPORATION

By: /s/ John D. Kavazanjian
John D. Kavazanjian
President and Chief Executive Officer

PETER F. COMERFORD

/s/ Peter F. Comerford
Peter F. Comerford

Exhibit 21

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% interest ownership in ABLE New Energy Co., Ltd, incorporated in the People's Republic of China.

We have a 100% ownership interest in McDowell Research Co., Inc., incorporated in Delaware.

We have a 100% ownership interest in RedBlack Communications, Inc. (formerly Innovative Solutions Consulting, Inc.), incorporated in Maryland.

We have a 100% ownership interest in Stationary Power Services, Inc., incorporated in Florida.

We have a 100% ownership interest in RPS Power Systems, Inc. (formerly Reserve Power Systems, Inc.), incorporated in Florida.

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

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Forms S-3 (Nos. 333-67808, 333-90984, 333-110426 and 333-136742) and Forms S-8 (Nos. 333-31930, 333-60984, 333-114271, 333-117662, 333-136737, 333-136738, 333-155347 and 333-155349) of Ultralife Corporation of our reports dated March 12, 2009 relating to the consolidated financial statements and schedule, and the effectiveness of internal control over financial reporting, which appear in this Form 10-K.

/s/ BDO Seidman, LLP

Troy, Michigan
March 12, 2009

Exhibit 31.1

I, John D. Kavazanjian, 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 officers 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 13, 2009

/s/ John D. Kavazanjian
John D. Kavazanjian,
President and Chief Executive Officer

Exhibit 31.2

I, Robert W. Fishback, 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 officers 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 13, 2009

/s/ Robert W. Fishback
Robert W. Fishback,
Vice President — Finance and
Chief Financial Officer

Exhibit 32.1

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"), John D. Kavazanjian and Robert W. Fishback, the President and Chief Executive Officer and Vice President-Finance and Chief Financial Officer, respectively, of Ultralife Corporation, certify that (i) the Annual Report on Form 10-K for the year ended December 31, 2008 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 13, 2009

/s/ John D. Kavazanjian
John D. Kavazanjian
President and Chief Executive Officer

Date: March 13, 2009

/s/ Robert W. Fishback
Robert W. Fishback
Vice President — Finance and
Chief Financial Officer