

Risk Factors Comparison 2023-12-27 to 2022-12-28 Form: 10-K

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You should carefully consider the risks described below, some of which have manifested and any of which may occur in the future, in addition to the other information contained in this report before making an investment decision with respect to any of our securities. Our business, results of operations, and financial condition could be materially and adversely impacted by any of these risks, which could in turn adversely affect our stock price. Additional risks not currently known to us or other factors not perceived by us as material risks could also present significant risks to our business. Risks Related to Demand, Competition, Product Development and Manufacture, and Operations We have incurred losses from continuing operations and our future profitability is not certain. For the fiscal year years ended September 30, **2023 and 2022**, we incurred a loss from **continuing operations of \$ 24.49, 3.4 million and \$ 40.8 million, respectively**. Our operating results for future periods are subject to numerous uncertainties and we cannot be certain that we will be profitable or that we will not experience substantial losses in the future. If we are not able to increase revenue and reduce our costs, we may not be able to achieve profitability in future periods and our business, financial condition, results of operations and cash flows may be adversely affected. ~~additional actions we could take (including those made in connection with our restructuring program announced in April 2023) to further reduce our expenses and / or potentially raising capital through additional debt or equity issuances, or from the potential monetization of certain assets. However, we may not be successful in executing on our plans to manage our liquidity, including recognizing the expected benefits from our previously announced restructuring program, or raising additional funds if we elect to do so, and as a result substantial doubt about our ability to continue as a going concern exists. The consolidated financial statements included herein do not include any adjustments relating to the recoverability and classification of asset amounts or the classification of liabilities that might be necessary should the Company be unable to continue as a going concern.~~ We may not be able to obtain capital when desired on favorable terms, if at all, or without dilution to shareholders. We operate in industries that ~~make~~ **make** our prospects difficult to evaluate and predict. It is possible that we may not generate sufficient cash flow from operations or otherwise have the capital resources to meet our future capital needs. If this occurs, we may need additional financing to continue operations or to execute on our current or future business strategies, including to: • invest in research and development efforts, including by hiring additional technical and other personnel; • maintain and expand operating or manufacturing infrastructure; • acquire complementary businesses, products, services or technologies; or • otherwise pursue strategic plans and respond to competitive pressures. If we raise additional funds through the issuance of equity or convertible debt securities, the percentage ownership of our shareholders could be significantly diluted, and these newly- issued securities may have rights, preferences, or privileges ~~senior to~~ **senior to** those of existing shareholders. We cannot be certain that additional financing will be available on terms favorable to us, or at all. If adequate funds are not available or are not available on acceptable terms, if and when needed, our ability to fund our operations, take advantage of unanticipated opportunities, develop or enhance our products, or otherwise respond to competitive pressures could be significantly limited. Furthermore, in the event adequate capital is not available to us as required, or is not available on favorable terms, ~~we may be required to adopt one or more alternatives including, but not limited to, selling additional assets, exiting additional business lines, further reductions of our capital expenditures, delaying, reducing the scope of or eliminating one or more research and development programs, selling and marketing initiatives, and restructuring our existing debt obligations on new terms that may be less favorable than the existing terms, if available at all. If we are unable to manage discretionary spending, raise additional capital, or implement any of the above activities, as needed, we may need to further curtail planned activities to reduce costs, which could include additional reductions in workforce, additional eliminations of business activities and services, and further reductions in other operating expenses. Doing so could potentially have a material and adverse effect on our business, financial condition, results of operations, and cash flows, and future prospects may be adversely affected.~~ Our secured credit facility contains financial and restrictive covenants that we may not satisfy, and that, if not satisfied, could result in the acceleration of any outstanding indebtedness and limit our ability to borrow additional funds. The credit facility also imposes restrictions that may limit our ability to pursue business opportunities. Our Credit Agreement, dated as of August 9, 2022 (the “ Credit Agreement ”), among the Company, S & N, the lenders party thereto and Wingspire Capital LLC (“ Wingspire ”), as administrative agent for the lenders, subjects us to various financial and other affirmative and negative covenants with which we must comply on an ongoing or periodic basis. These include financial covenants pertaining to a minimum fixed charge coverage ratio and covenants requiring the mandatory prepayment of amounts outstanding under the revolver under specified circumstances. The ~~Credit Agreement~~ **agreements** also ~~subjects~~ **subject** us to various restrictions on our ability to engage in certain activities, such as raising capital or acquiring businesses. These restrictions may limit or restrict our cash flow and our ability to pursue business opportunities or strategies that we would otherwise consider to be in our best interests. In addition, the Credit Agreement contains a cash dominion provision, requiring us to maintain a minimum amount of liquidity. As of September 30, ~~2023~~ **2022**, this minimum amount of liquidity that we needed to maintain was \$ 12.5 million. If we fall below this minimum amount of liquidity for a period of three consecutive days, or if there occurs an event of default under the Credit Agreement, then our lender can exercise certain rights, including taking control of our bank accounts and cash resources. In addition, if an event of default occurs under the Credit Agreement, our lenders can accelerate the maturity of our indebtedness under that agreement to make it due and payable immediately. If we trigger the cash dominion provision or if an event of default occurs under the Credit Agreement and if in either case our lenders elect to exercise their rights, we may not be able to pay our debts and other monetary obligations as they come due, and our ability to continue to operate as a going concern could be impaired, which could in turn cause a significant

decline in our stock price and could result in a significant loss of value for our shareholders. ~~We~~ **Customer demand is difficult to forecast and, as a result, we** may be unable to ~~realize~~ **optimally match production with customer demand. We make planning and spending decisions, including determining** the level levels of business ~~the anticipated benefits that we will seek and accept,~~ **production schedules, component procurement commitments, personnel needs and other resource requirements, based on estimates of customer demand. While customers generally provide us with their demand forecasts, they are typically not contractually committed to buy any quantity of products beyond firm purchase orders. The short-term nature of customer commitments and the possibility of ~~expect~~ **unexpected changes in demand for their products limit the ability to accurately predict future customer demand. On occasion, customers have required rapid increases in production, which has strained resources. We may not have sufficient capacity at any given time to meet the volume demands of customers, or one or more suppliers may not have sufficient capacity at any given time to meet our volume demands. Conversely, a downturn in the markets in which our customers compete can cause, and in the past has caused, customers to significantly reduce the amount of products ordered from us or to cancel ~~existing~~ **existing businesses orders, leading to lower utilization of our facilities. Because many of our costs and operating expenses are relatively fixed, reduction in customer demand would have and** ~~an~~ **restructuring our** ~~adverse effect on gross margin, results of operations,~~ **and cash flow. During an industry downturn, there is also a higher risk that a larger portion of trade receivables would be uncollectible. In addition, certain arrangements with component vendors require us to purchase minimum quantities of components within specific time periods, which may adversely impact ~~could cause us to hold excess inventories of these components during periods concurrent with a decrease in customer demand for our products~~ We are a small company and dependent on a few products for success. We are a small company with a narrow, focused portfolio of products. Our small size could cause our cash flow, results of operations, and growth prospects to be more volatile and makes us more vulnerable to focused competition. As a small company, we will be subject to greater revenue fluctuations if our older product lines' sales were to decline faster than we anticipate. In addition, we may not be able to appropriately restructure or maintain our supporting functions to fit the needs of a small company, which could adversely affect our business, financial condition, results of operations, and cash flows. We are substantially dependent on revenues from a small number of customers. The loss of or decrease in sales from any one of these customers could adversely affect our business, financial condition, results of operations, and cash flows. A small number of customers account for a significant portion of our revenue, and dependence on orders from a relatively small number of customers makes our relationship with each customer critically important to our business. For example, for the fiscal ~~year~~ **years** ended September 30, **2023 and 2022**, sales to ~~three~~ **two** customers accounted for an aggregate of ~~54~~ **40 % and 40 %** of total consolidated revenues ~~and for the fiscal year ended September 30, 2021, sales to three customers accounted for an aggregate of 70 % of total consolidated revenues~~. Revenue from any major customer may decline or fluctuate significantly in the future. We may not be able to offset any decline in sales from existing major customers with sales from new customers or other existing customers. Because of reliance on a limited number of customers, any decrease in sales from, or loss of, one or more of these customers without a corresponding increase in sales from other customers would harm our business, operating results, financial condition, and cash flows. In addition, any negative developments in the business of existing significant customers could result in significantly decreased sales to these customers, which could seriously harm our business, operating results, financial condition, and cash flows. If there is consolidation among our customer base, customers may be able to command increased leverage in negotiating prices and other terms of sale, which could adversely affect profitability. If we are required to reduce pricing, revenue and gross margins would be adversely impacted. Consolidation among our customer base may also lead to reduced demand for our products, replacement of our products by the combined entity with those of competitors, and cancellations of orders, each of which could adversely affect our business, financial condition, results of operations, and cash flows. Although we are attempting to expand our customer base, the markets in which we sell our products are dominated by a relatively small number of companies, thereby limiting the number of potential customers. Accordingly, success will depend on our continued ability to develop and manage relationships with significant customers, and we expect that the majority of sales will continue to depend on sales of our products to a limited number of customers for the foreseeable future. Future revenue is inherently unpredictable. As a result, operating results are likely to fluctuate from period to period, and we may fail to meet the expectations of analysts and / or investors, which may cause volatility in our stock price and may cause the stock price to decline. Our quarterly and annual operating results have fluctuated substantially in the past and are likely to fluctuate significantly in the future due to a variety of factors, some of which are outside of our control. Factors that could cause quarterly or annual operating results to fluctuate include: • increases or decreases in the markets for customers' products; • discontinuation by vendors of, or unavailability of, components or services used in our products; • disruptions or delays in our manufacturing processes or in our supply of raw materials or product components; • a failure to anticipate changing customer product requirements; • market acceptance of our products; • cancellations or postponements of previously placed orders; • increased financing costs or any inability to obtain necessary financing; • the impact on our business of current or future cost reduction measures; • a loss of key personnel or the shortage of available skilled workers; • economic conditions in various geographic areas where we or our customers do business; • the impact of political uncertainties, such as government sequestration and uncertainties surrounding the federal budget, customer spending, and demand for our products; • significant warranty claims, including those not covered by suppliers; • product liability claims; • other conditions affecting the timing of customer orders; • reductions in prices for our products or increases in the costs of raw materials; • effects of competitive pricing pressures, including decreases in average selling prices of our products; • fluctuations in manufacturing yields; • obsolescence of products; • research and development expenses incurred associated with new product introductions; • natural disasters, such as hurricanes, earthquakes, fires, and floods; • pandemics, including COVID- 19; • the emergence of new industry standards; • the loss or gain of significant customers; • the introduction of new products and manufacturing processes; • changes in technology; • intellectual property disputes; • customs (including******

tariffs imposed on our products or raw materials, equipment, or components used in the production of our products), import / export, and other regulations of the countries in which we do business; • the occurrence of merger and acquisition activities; and • acts of war, terrorism, or violence and international conflicts or crises. ~~In addition, the limited lead times with which many customers order our products restrict the ability to forecast revenue. We may also experience a delay in generating or recognizing revenue for a number of reasons. For example, in certain of our product lines, orders at the beginning of each quarter typically represent a small percentage of expected revenue for that quarter. We depend on obtaining orders during each quarter for shipment in that quarter to achieve revenue objectives. Failure to ship these products by the end of a quarter may adversely affect results of operations and cash flows.~~ As a result of the foregoing factors, we believe that period- to- period comparisons of results of operations should not be solely relied upon as indicators of future performance. The acquisitions of EMCORE Chicago and S & N, and acquisitions of other companies or investments in joint ventures with other companies could adversely affect operating results, dilute shareholders' equity, or cause us to incur additional debt or assume contingent liabilities. To increase business, maintain competitive position, or for other business or strategic reasons, we may acquire other companies or engage in joint ventures or similar transactions in the future. For example, in August 2022, we acquired EMCORE Chicago from KVH Industries, Inc. and in April 2022, we acquired S & N from L3Harris Technologies, Inc. The acquisitions of EMCORE Chicago and S & N, and any other acquisitions, joint ventures, and similar transactions that we may enter into from time to time, involve a number of risks that could harm our business and result in EMCORE Chicago, S & N, and / or any other acquired business or joint venture not performing as expected, including: • problems integrating the acquired operations, personnel, technologies, or products with the existing business and products; • failure to achieve cost savings or other financial or operating objectives with respect to an acquisition; • possible adverse short- term effects on cash flows or operating results, and the use of cash and other resources for the acquisition that might affect liquidity, and that could have been used for other purposes; • diversion of management's time and attention from our existing business to the acquired business or joint venture; • potential failure to retain key technical, management, sales, and other personnel of the acquired business or joint venture; • difficulties in retaining relationships with suppliers and customers of the acquired business, particularly where such customers or suppliers compete with us; • difficulties in the integration of financial reporting systems, which could cause a delay in the issuance of, or impact the reliability of the consolidated financial statements; • failure to comply with Section 404 of the Sarbanes- Oxley Act of 2002, including a delay in or failure to successfully integrate these businesses into our internal control over financial reporting; • insufficient experience with technologies and markets in which the acquired business is involved, which may be necessary to successfully operate and integrate the business; • reliance upon joint ventures which we do not control; • subsequent impairment of goodwill and acquired long- lived assets, including intangible assets; and • assumption of liabilities including, but not limited to, lawsuits, environmental liabilities, regulatory liabilities, tax examinations, and warranty issues. We may decide that it is in our best interests to enter into acquisitions, joint ventures, or similar transactions that are dilutive to earnings per share ("EPS") or that adversely impact margins as a whole. In addition, acquisitions or joint ventures could require investment of significant financial resources and require us to obtain additional equity financing, which may dilute shareholders' equity, or require us to incur indebtedness. We expect to consider from time to time further strategic opportunities that may involve acquisitions, dispositions, investments in joint ventures, partnerships, and other strategic alternatives that may enhance shareholder value, any of which may result in the use of a significant amount of management resources or significant costs, and we may not be able to fully realize the potential benefit of such transactions. We expect to continue to consider acquisitions, dispositions, investments in joint ventures, partnerships, and other strategic alternatives that may enhance shareholder value. The Strategy and Alternatives Committee of the Board of Directors and management may from time to time be engaged in evaluating potential transactions and other strategic alternatives. In addition, from time to time, we may engage financial advisors, enter into non- disclosure agreements, conduct discussions, and undertake other actions that may result in one or more transactions. Although there would be uncertainty that any of these activities or discussions would result in definitive agreements or the completion of any transaction, we may devote a significant amount of management resources to analyzing and pursuing such a transaction, which could negatively impact operations. In addition, we may incur significant costs in connection with seeking such transactions or other strategic alternatives regardless of whether the transaction is completed. In the event that we consummate an acquisition, disposition, partnership, or other strategic alternative in the future, we cannot be certain that we would fully realize the anticipated benefits of such a transaction and cannot predict the impact that such strategic transaction might have on our operations or stock price. We may not be able to..... decrease in customer demand for our products. The market price for our common stock has experienced significant price and volume volatility and is likely to continue to experience significant volatility in the future. This volatility may impair the ability to finance strategic transactions with our stock and otherwise harm our business. Our stock price has experienced significant price and volume volatility for the past several years, and our stock price is likely to experience significant volatility in the future. The trading price of our common stock may be influenced by factors beyond our control, such as the volatility of the financial markets, uncertainty surrounding domestic and foreign economies, conditions and trends in the markets we serve, changes in the estimation of the future size and growth rate of our markets, publication of research reports, and recommendations by financial analysts relating to our business, the business of competitors, or the industries in which we operate and compete, changes in market valuation or earnings of competitors, legislation or regulatory policies, practices, or actions, sales of our common stock by principal shareholders, and the trading volume of our common stock. The historical market prices of our common stock may not be indicative of future market prices and we may be unable to sustain or increase the value of our common stock. We have historically used equity incentive compensation as part of our overall compensation arrangements. The effectiveness of equity incentive compensation in retaining key employees may be adversely impacted by volatility in our stock price. Significant declines in our stock price may also interfere with the ability, if needed, to raise additional funds through equity financing or to finance strategic transactions with our stock. In addition, there may be increased risk of securities litigation following periods of fluctuations in our stock

price. Securities class action lawsuits are often brought against companies after periods of volatility in the market price of their securities. These and other consequences of volatility in our stock price which could be exacerbated by macroeconomic conditions that affect the market generally, or our industries in particular, could have the effect of diverting management's attention and could materially harm our business. **Our** We are subject to the cyclical nature of the markets in which we compete and any future downturn may reduce demand for our products and revenue. In the past, the markets in which we compete in our Broadband segment have experienced significant downturns, often connected with, or in anticipation of, the maturation of product cycles, for both manufacturers' and their customers' products, and declining general economic conditions. These downturns have been characterized by diminished product demand, production overcapacity, high inventory levels, and accelerated erosion of average selling prices. These markets are impacted by the aggregate capital expenditures of service providers and enterprises as they build out and upgrade their network infrastructure. These markets are highly cyclical and characterized by constant and rapid technological change, pricing pressures, evolving standards, and wide fluctuations in product supply and demand. We may experience substantial period-to-period fluctuations in future results of operations. Any future downturn in the markets in which we compete, or changes in demand for our products from customers, could result in a significant reduction in revenue and may also increase the volatility of the price of our common stock. In addition, the Broadband communication networks industry from time to time has experienced and may again experience a pronounced downturn. To respond to a downturn, many service providers and enterprises may slow their capital expenditures, cancel or delay new developments, reduce their workforce and inventories, and take a cautious approach to acquiring new equipment and technologies, any of which could cause results of operations to fluctuate from period to period and harm our business. **Operating** **operating** results could be harmed if we are unable to obtain timely deliveries of sufficient materials, components, or services of acceptable quality from sole or limited sources, or if the prices of materials, components, or services for which we do not have alternative sources increase. We currently obtain materials, components, and services used in our products from limited or sole sources. We generally do not carry significant inventories of any raw materials. The reliance on a sole supplier, single qualified vendor, or limited number of suppliers could result in delivery or quality problems or reduced control over product pricing, reliability, and performance. For example, during the fiscal year ended September 30, 2022, COVID-19 driven component shortages and delays required us to source critical components from alternative sources and, in some cases, to design in alternative parts and qualify them with customers on short schedules. Because we often do not account for a significant part of our suppliers' businesses, we may not have access to sufficient capacity from these suppliers in periods of high demand. In addition, since we generally do not have guaranteed supply arrangements with suppliers, we risk serious disruption to operations if an important supplier terminates product lines, changes business focus, or goes out of business, and we may need large end-of-life purchases when a sole source supplier is ceasing manufacturing of required components. Because some of these suppliers are located overseas, we may be faced with higher costs of purchasing these materials if the U. S. dollar weakens against other currencies, or if import tariffs are imposed on these materials. If we were to change any of our limited or sole source suppliers, we would be required to re-qualify each new supplier. Re-qualification could prevent or delay product shipments that could adversely affect results of operations and cash flows. In addition, reliance on these suppliers may adversely affect production if the components vary in quality or quantity. If we are unable to obtain timely deliveries of sufficient components of acceptable quality or if the prices of components for which we do not have alternative sources increase, our business, financial condition, results of operations, and cash flows could be materially adversely affected. Our products are complex and may take longer to develop and qualify than anticipated and we face lengthy sales and qualification cycles for our new products and, in many cases, must invest a substantial amount of time and money before we receive orders. We **regularly** **are constantly developing** **develop** new products and **using use** new technologies in these products. These products often take substantial time to develop because of the complexity, rigorous testing, and qualification requirements and because customer and market requirements can change during the product development or qualification process. Most of our products are tested by current and potential customers as part of the development and qualification process to determine whether they meet customer or industry specifications. The length of the qualification process, which can span a year or more, varies substantially by product and customer and, thus, can cause results of operations and cash flows to be unpredictable. During a given qualification period, we invest significant resources and allocate substantial production capacity to manufacture these new products prior to any commitment to purchase by customers. In addition, it is difficult to obtain new customers during the qualification period as customers are reluctant to expend the resources necessary to qualify a new supplier if they have one or more existing qualified sources. If we are unable to meet applicable specifications or do not receive sufficient orders to profitably use allocated production capacity, our business, financial condition, results of operations, and cash flows may be adversely affected. Historical and future budgets for operating expenses, capital expenditures, operating leases, and service contracts are based upon assumptions as to the future market acceptance of our products. Because of the lengthy lead times required for product development and the changes in technology that typically occur while a product is being developed, it is difficult to accurately estimate customer demand for any given product. If our products do not achieve an adequate level of customer demand, our business, financial condition, results of operations, and cash flows may be adversely affected. Our products are difficult to manufacture. Production could be disrupted and results of operations and cash flows could suffer if production yields are low as a result of manufacturing difficulties. We manufacture many of our **wafers and** products in our own production facilities. Difficulties in the production process, such as contamination, raw material quality issues, human error, or equipment failure, could cause a substantial percentage of **products wafers and devices** to be nonfunctional. These problems may be difficult to detect at an early stage of the manufacturing process and are often time-consuming and expensive to correct. Lower-than-expected production yields may delay shipments or result in unexpected levels of warranty claims, either of which could adversely affect results of operations and cash flows. We have experienced difficulties in achieving planned yields in the past, particularly in pre-production and upon initial commencement of full production volumes, which have adversely affected gross

margins. Because the majority of our manufacturing costs are fixed, achieving planned production yields is critical to results of operations and cash flows. Changes in manufacturing processes required as a result of changes in product specifications, changing customer needs, and the introduction of new product lines could significantly reduce manufacturing yields, resulting in low or negative margins on those products. In addition, transitioning to automation in certain manufacturing processes could result in manufacturing delays or significantly reduce manufacturing yields. Manufacturing yields depend on a number of factors, including the stability and manufacturability of the product design, manufacturing improvements gained over cumulative production volumes, the quality and consistency of component parts, and the nature and extent of customization requirements by customers. Higher volume demand for more mature designs requiring less customization generally results in higher manufacturing yields than products with lower volumes, less mature designs, and requiring extensive customization. Capacity constraints, raw materials shortages, logistics issues, the introduction of new product lines and changes in customer requirements, manufacturing facilities, or processes or those of third- party ~~CMs and~~ component suppliers have historically caused, and may in the future cause, significantly reduced manufacturing yields, negatively impacting the gross margins on, and production capacity for, those products. **Our Ability-ability** to maintain sufficient manufacturing yields is particularly important with respect to certain products we manufacture, as a result of the long manufacturing process. Moreover, an increase in the rejection and rework rate of products during the quality control process before, during, or after manufacture would result in lower yields, gross margins, and production capacity. Finally, manufacturing yields and margins can also be lower if we receive and inadvertently use defective or contaminated materials from suppliers. We also have substantial risk of interruption in manufacturing resulting from fire, natural disaster, equipment failures, acts of government, or similar events, because we manufacture most of our products using few facilities, and do not have back- up facilities available for manufacturing these products. We could also incur significant costs to repair or replace products that are defective and, in some cases, costly product redesigns and / or rework may be required to correct a defect. Additionally, any defect could adversely affect our reputation and result in the loss of future orders. Some of the capital equipment used in the manufacture of our products have been developed and made specifically for us, may not be readily available from multiple vendors, and would be difficult to repair or replace if they were to become damaged or stop working. If any of these suppliers were to experience financial difficulties or go out of business, or if there were any damage to, or a breakdown of manufacturing equipment at a time when we are manufacturing commercial quantities of our products, our business, financial condition, results of operations, and cash flows could be adversely affected. If we do not keep pace with rapid technological change, our products may not be competitive. We compete in markets that are characterized by rapid technological change, frequent new product introductions, changes in customer requirements, evolving industry standards, continuous improvement in products, and the use of our existing products in new applications. We may not be able to develop the underlying core technologies necessary to create new products and enhancements to our existing products at the same rate as or faster than competitors, to develop products that effectively compete with competitors' products used in new applications, ~~such as remote physical layer,~~ or to license the technology from third parties that is necessary for our products. Product development delays may result from numerous factors, including: • changing product specifications and customer requirements; • unanticipated engineering complexities; • expense reduction measures we have implemented and others we may implement; • difficulties in hiring and retaining necessary technical personnel; and • difficulties in allocating engineering resources and overcoming resource limitations. We cannot be certain that we will be able to identify, develop, manufacture, market, or support new or enhanced products successfully, if at all, or on a timely, cost effective, or repeatable basis. Future performance will depend on successful development and introduction of, as well as market acceptance of, new and enhanced products that address market changes, as well as current and potential customer requirements and ability to respond effectively to product announcements by competitors, technological changes, or emerging industry standards. Because it is generally not possible to predict the amount of time required and the costs involved in achieving certain research, development, and engineering objectives, actual development costs may exceed budgeted amounts and estimated product development schedules may be extended. If we are unable to develop, manufacture, market, or support new or enhanced products successfully, or incur budget overruns or delays in research and development efforts, our business, financial condition, results of operations, and cash flows may be adversely affected. **Increased Spending-spending** to develop and improve technology may adversely impact financial results. We may increase research and development and / or capital expenditures and expenses above our historical run- rate model in order to attempt to improve existing technology and develop new technology. Increasing investments in research and development of technology could cause our cost structure to fall out of alignment with demand for our products, which would have a negative impact on financial results. If we are unable to fund these types of expenditures, we may be unable to improve technology or develop new technologies, which may adversely affect our business, financial condition, results of operations, and cash flows. Further, our research and development programs may not produce successful results, and our new products and services may not achieve market acceptance, create additional revenue, or become profitable, which could materially harm our business, prospects, financial results, and liquidity. The competitive and rapidly evolving nature of our industries and pressure from competitors with greater resources has in the past resulted in and is likely in the future to result in reductions in our product prices and periods of reduced demand for our products. We face substantial competition from a number of companies, many of which have greater financial, marketing, manufacturing, and technical resources than we do. Larger- sized competitors often spend more on research and development, which could give those competitors an advantage in meeting customer demands and introducing technologically innovative products before we do. We expect that existing and new competitors will continue to improve the design of their existing products and will introduce new products with enhanced performance characteristics. The introduction of new products and more efficient production of existing products by competitors have resulted, and are likely in the future to result in, price reductions, increases in expenses, and reduced demand for our products. In addition, competitors may be willing to provide their products at lower prices, accept a lower profit margin, or spend more capital in order to obtain or retain business. ~~Competitive pressures have required us to reduce the prices of some of~~

~~our products.~~ These competitive forces could diminish our market share and gross margins, resulting in an adverse effect on our business, financial condition, results of operations, and cash flows. New competitors may also enter our markets, including some current and potential customers who may attempt to integrate their operations by producing their own components **and subsystems** or acquiring a competitor, thereby reducing demand for our products. In addition, rapid product development cycles, increasing price competition due to maturation of technologies, the emergence of new competitors with lower cost structures, and industry consolidation resulting in competitors with greater financial, marketing, and technical resources could result in lower prices or reduced demand for our products, which could have an adverse effect on our business, financial condition, results of operations, and cash flows. Expected and actual introductions of new and enhanced products may cause customers to defer or cancel orders for existing products and may cause our products to become obsolete. A slowdown in demand for existing products ahead of a new product introduction could result in a write-down in the value of inventory on hand related to existing products. We have in the past experienced a slowdown in demand for existing products and delays in new product development and such delays may occur in the future. To the extent customers defer or cancel orders for existing products due to a slowdown in demand or in anticipation of a new product release, or if there is any delay in development or introduction of our new products or enhancements of our products, our business, financial condition, results of operations, and cash flows could be adversely affected. ~~for our shareholders.~~ Customer demand is difficult to forecast and, as a result, we may be unable to optimally match production with customer demand. We make planning and spending decisions, including determining the levels of business that we will seek and accept, production schedules, component procurement commitments, personnel needs and other resource requirements, based on estimates of customer demand. While customers generally provide us with their demand forecasts, they are typically not contractually committed to buy any quantity of products beyond firm purchase orders. The short-term nature of customer commitments and the possibility of unexpected changes in demand for their products limit the ability to accurately predict future customer demand. On occasion, customers have required rapid increases in production, which has strained resources. We may not have sufficient capacity at any given time to meet the volume demands of customers, or one or more suppliers may not have sufficient capacity at any given time to meet our volume demands. Conversely, a downturn in the markets in which our customers compete can cause, and in the past has caused, customers to significantly reduce the amount of products ordered from us or to cancel existing orders, leading to lower utilization of our facilities. Because many of our costs and operating expenses are relatively fixed, reduction in customer demand would have an adverse effect on gross margin, results of operations, and cash flow. During an industry downturn, there is also a higher risk that a larger portion of trade receivables would be uncollectible. In addition, certain arrangements with component vendors require us to purchase minimum quantities of components within specific time periods, which could cause us to hold excess inventories of these components during periods concurrent with a decrease in customer demand **for our products.** A failure to attract and retain managerial, technical, and other key personnel could reduce revenue and operational effectiveness. Future success depends, in part, on the ability to attract and retain certain key personnel, including scientific, operational, financial, and managerial personnel. In addition, technical personnel represent a significant asset and serve as the source of our technological and product innovations. The competition for attracting and retaining key employees (especially scientists, technical personnel, senior managers, and executives) is intense. Because of this competition for skilled employees, we may be unable to retain existing personnel or attract additional qualified employees in the future to keep up with business demands and changes, and our business, financial condition, results of operations, and cash flows could be adversely affected. The risks involved in recruiting and retaining these key personnel may be increased by our historical lack of profitability, the volatility of our stock price, and the perceived effect of previously implemented reductions in workforce and other cost reduction efforts. **Our** ~~If spending for optical communications networks declines, revenues and financial performance may decline. A material portion of revenues depend on continued capital investment in global communications networks infrastructure and on continued demand for high-bandwidth, high-speed communications networks, and the ability of original equipment manufacturers to meet this demand. Spending on communications networks is limited by several factors, including limited investment resources, uncertainty regarding the long-term evolution and sustainability of service provider business models, and a changing regulatory environment. We cannot be certain that demand for bandwidth-intensive content will continue to grow at the same pace in the future or that communications service providers will continue to increase spending to meet such demand. If expectations for growth of communications networks and bandwidth consumption are not realized and investment in communications networks does not grow as anticipated, revenues, results of operations, and gross margins could be harmed.~~ Ability to achieve operational and material cost reductions and to realize production efficiencies for operations is critical to long-term profitability. We have implemented a number of operational and material cost reductions and productivity improvement initiatives, which are intended to reduce our cost structure at both the cost of revenue and the operating expense levels. Cost reduction initiatives often involve the re-design of our products, which requires customers to accept and qualify the new designs, potentially creating a competitive disadvantage for our products. These initiatives can be time-consuming, disruptive to operations, and costly in the short-term. Successfully implementing these and other cost-reduction initiatives throughout operations is critical to future competitiveness and ability to achieve long-term profitability. However, we cannot be certain that these initiatives will be successful in creating profit margins sufficient to sustain our current operating structure and business. ~~If CMs fail to deliver qualified products at reasonable prices and on a timely basis, our business, financial condition, results of operations, and cash flows could be adversely affected. We use CMs as a less-expensive alternative to manufacture certain products. CMs in Asia currently manufacture our CATV Laser and Transmitter products and components and a CM in the U. S. currently manufactures a significant portion of our Defense Optoelectronics products. In some cases, we supply inventory to CMs, and we bear the risk of loss, theft, or damage to inventory while it is held in their facilities. If these CMs do not fulfill their obligations to us, or if we do not properly manage these relationships and the transition of production to these CMs, existing customer relationships may suffer. In addition, by undertaking these activities, we run the risk that the reputation and competitiveness of our products and~~

services may deteriorate as a result of the reduction of our ability to oversee and control the assembly process, quality, and delivery schedules. If we fail to manage our relationship with CMs, or if any of the CMs experience financial difficulty, delays, disruptions, capacity constraints, or quality control problems in their operations, the ability to ship products to customers could be impaired and our competitive position and reputation could be harmed. The use of CMs located outside of the U. S. also subjects us to the following additional risks that could significantly impair the ability to source contract manufacturing requirements internationally, including: • unexpected changes in regulatory requirements; • legal uncertainties regarding liability, tariffs, and other trade barriers; • inadequate protection of intellectual property in some countries; • greater incidence of shipping delays; • greater difficulty in overseeing manufacturing operations; • greater difficulty in hiring talent needed to oversee manufacturing operations; • potential political and economic instability and natural disasters; • potential adverse actions by the U. S. government pursuant to its stated intention to reduce the loss of U. S. jobs; • trade and travel restrictions; and • the outbreak of infectious diseases which could result in travel restrictions or the closure of the facilities of our CMs. Any of these factors could significantly impair the ability to source contract manufacturing requirements internationally. In some cases, prior to customers accepting products manufactured at CMs, they must qualify the product and manufacturing processes. The qualification process determines whether the product manufactured at our CMs achieves our customers' quality, performance, and reliability standards. The qualification process can be lengthy and expensive, with no guarantee that any particular product qualification process will lead to profitable product sales, and expectations as to the time periods required to qualify a product line and ship products in volumes to customers may be erroneous. Delays in qualification can impair expected timing of the transfer of a product line to our CMs and may impair expected amount of sales of the effected products. Any of these uncertainties or delays could adversely affect operating results and customer relationships. In addition, certain CMs may terminate our agreements with them upon prior notice to us or immediately for reasons such as if we become insolvent or if we fail to perform a material obligation under the agreements. If we are required to change CMs or assume internal manufacturing operations for any reason, including the termination of one of our contracts, we will likely suffer manufacturing and shipping delays, lost revenue, increased costs, and damage to customer relationships, any of which could harm our business, financial condition, results of operations, and cash flows. Our products may contain defects that could cause us to incur significant costs, divert management's attention, result in a loss of customers, and result in product liability claims. Our products are complex and undergo quality testing and formal qualification by customers and us. However, defects may occur from time to time. ~~Customers~~ **Customer** testing procedures involve evaluating our products under likely and foreseeable failure scenarios and over varying amounts of time. For various reasons, such as the occurrence of performance problems that are unforeseeable in testing or that are detected only when products age or are operated under peak stress conditions, our products may fail to perform as expected long after customer acceptance. Failures could result from faulty components or design, problems in manufacturing, or other unforeseen reasons. For the majority of our products, we provide a product warranty of one year or less from **the** date of shipment. As a result, we could incur significant costs to repair or replace defective products under warranty, particularly when such failures occur in installed systems. We have experienced failures in the past and will continue to face this risk going forward, as our products are widely deployed throughout the world in multiple demanding environments and applications. In addition, we may in certain circumstances, honor warranty claims after the warranty has expired or for problems not covered by warranty in order to maintain customer relationships. Any significant product failure could result in product recalls, product liability claims, lost future sales of the affected product, and other products, as well as customer relations problems, litigation, and damage to our reputation. In addition, our products are typically embedded in, or deployed in conjunction with, customers' products, which incorporate a variety of components, modules, and subsystems and may be expected to interpolate with modules and subsystems produced by third parties. As a result, not all defects are immediately detectable and when problems occur, it may be difficult to identify the source of the problem. These problems may cause us to incur significant damages or warranty and repair costs, divert the attention of engineering personnel from product development efforts, and cause significant customer relations problems or loss of customers, all of which would harm our business. The occurrence of any defects in products could also give rise to liability for damages caused by such defects. Although we carry product liability insurance to mitigate this risk, insurance may not adequately or entirely cover costs that may arise from defects in products or otherwise, nor will it protect us from reputational harm that may result from such defects. Costs incurred in connection with product recalls or warranty or product liability claims may adversely affect our business, financial condition, results of operations, and cash flows. Shifts in industry- wide demands and inventories could result in significant inventory write- downs. The life cycles of some products depend heavily upon the life cycles of the end products into which our products are designed. Products with short life cycles require us to manage production and inventory levels closely. We evaluate ending inventories on a quarterly basis for excess quantities, impairment of value, and obsolescence. This evaluation includes analysis of sales levels by product and projections of future demand based upon input received from customers, sales team, and management. If inventories on hand are in excess of demand, or if they are generally greater than 12 months old, appropriate write- downs may be recorded. In addition, we write off inventories that are considered obsolete based upon changes in customer demand, manufacturing process changes that result in existing inventory obsolescence, or new product introductions which eliminate demand for existing products. Remaining inventory balances are adjusted to approximate the lower of manufacturing cost or net realizable market value. If future demand or market conditions are less favorable than estimates, inventory write- downs may be required. We cannot be certain that obsolete or excess inventories, which may result from unanticipated changes in the estimated total demand for our products and / or the estimated life cycles of the end products into which our products are designed, will not affect us beyond the inventory charges that we have already taken. The types of sales contracts we use in the markets we serve subject us to unique risks in each of those markets. For most of our products, we do not have long- term supply contracts with customers and typically sell our products pursuant to purchase orders with short lead times, and even where we do have long- term supply contracts, customers are typically not obligated to purchase any minimum

amount of our products. As a result, in most cases customers could stop purchasing our products at any time, and we must fulfill orders in a timely manner to keep them satisfied. Risks associated with an absence of long-term purchase commitments with customers include the following: • customers can stop purchasing our products at any time without penalty; • customers may purchase products from competitors; and • customers are not required to make minimum purchases. These risks are increased by the fact that our customers include large, sophisticated companies that have considerable purchasing power and control over their suppliers. If we are unable to fulfill these orders in a timely manner, it is likely that we will lose sales and customers. The majority of our development contracts are for a fixed price, and fixed price development work inherently has more uncertainty than production contracts and, therefore, entails more variability in estimates of the cost to complete the work. Many of these development programs have very complex designs. As technical or quality issues arise, we may experience schedule delays and adverse cost impacts, which could increase estimated cost to perform the work, either of which could adversely affect results of operations. Some fixed price development contracts include initial production units in their scope of work. Successful performance of these contracts depends on the ability to meet production specifications and delivery rates. If we are unable to meet these contract requirements, revenue from these contracts could be reduced through the incorporation of liquidated damages, the contract could be terminated for default, and we could be subject to other financially significant consequences. We use our best judgment to estimate the cost to perform the work and the price we will eventually be paid on fixed price development programs. While we believe the cost and price estimates used to prepare the consolidated financial statements are appropriate, future events could result in unfavorable adjustments to those estimates which in turn would adversely affect results of operations. We are subject to risks associated with the availability and coverage of insurance. For certain risks, we do not maintain insurance coverage because of cost or availability. Because we retain some portion of our insurable risks, and in some cases self-insure completely, unforeseen or catastrophic losses in excess of insured limits may have an adverse effect on our business, financial condition, results of operations, and cash flows. Risks Related to International Sales and Operations We ~~currently have~~ **previously had** operations in China with respect to our Broadband business, which exposes us to risks inherent in doing business in China. In an effort to keep costs down, we ~~currently~~ **previously** ~~operate~~ **operated** certain logistic functions with respect to our Broadband business in China, **which operations were sold in connection with the Broadband transaction**. Our **previous** China based activities ~~are~~ **were** subject to greater political, legal, and economic risks than those faced by our other operations. In particular, the political, legal, and economic climate in China (both at the national and regional levels) is extremely volatile and unpredictable. ~~We~~ **Our ability to operate in China** may be adversely affected by changes in, or **any previous** failure to comply with, Chinese laws and regulations, such as those relating to taxation, import and export tariffs, environmental regulations, land use rights, intellectual property, labor and employment laws, and other matters. ~~Laws and regulations remain underdeveloped and subject to change for political or other reasons, with little or no prior notice.~~ Moreover, the enforceability of applicable existing Chinese laws and regulations is uncertain. For example, since Chinese administrative and court authorities have significant discretion in interpreting and implementing statutory and contract terms, it may be more difficult to evaluate the outcome of administrative and court proceedings and the level of legal protection we would receive. ~~These uncertainties may impede the ability to enforce the contracts we have entered into with distributors, business partners, customers, and suppliers.~~ In addition, protections of intellectual property rights and confidentiality in China may not be as effective as in the U. S. or other countries or regions. All of these uncertainties could limit the legal protections available to us and could materially and adversely affect our business, financial condition, cash flows, and results of operations. Also, if we are found to be, or to have been, in violation of Chinese laws or regulations governing technology import and export, the relevant regulatory authorities have broad discretion in dealing with such violations, including, but not limited to, issuing a warning, levying fines, restricting us from benefiting from these technologies inside or outside of China, confiscating our earnings generated from the import or export of such technology or even restricting our future import and export of any technology. ~~In addition, we may not obtain the requisite legal permits to continue to operate in China and costs or operational limitations may be imposed in connection with obtaining and complying with such permits. Our business could be adversely harmed by any changes in the political, legal, or economic climate in China, failure to comply with applicable laws and regulations or inability to enforce applicable Chinese laws and regulations.~~ We are required to pay income taxes in China subject to certain tax relief. ~~We may become subject to other forms of taxation and duty assessments in China, including import tariffs as described in more detail above, or may be required to pay for export license fees in the future.~~ In the event that we become subject to any increased taxes or new forms of taxation imposed by authorities in China, results of operations and cash flows could be adversely affected. We have significant international sales, which expose us to additional risks and uncertainties. For the fiscal years ended September 30, **2023 and 2022** ~~and 2021~~, sales to customers located outside the U. S. **and Canada** accounted for approximately **23.4.2%** and **7.12.0%**, respectively, of consolidated revenue, with revenue assigned to geographic regions based on customers' billing address. Sales to customers in **Asia-Europe** represent the majority of international sales. We believe that international sales will continue to account for a significant percentage of revenue as we seek international expansion opportunities. In addition, certain sales to customers with a U. S. billing address may be physically shipped to a location outside of the U. S. International sales and operations are subject to a number of material risks, including, but not limited to: • political and economic instability or changes in U. S. government policy with respect to the foreign countries where customers are located may inhibit export of products and limit potential customers' access to U. S. dollars in a country or region in which those potential customers are located; • we may experience difficulties in enforcing legal contracts or the collecting of foreign accounts receivable in a timely manner and we may be forced to write off these receivables; • tariffs and other barriers may make our products less cost competitive or may reduce gross margin on these products; • the laws of certain foreign countries may not adequately protect our trade secrets and intellectual property or may be burdensome to comply with; • potentially adverse tax consequences to customers may damage cost competitiveness; • customs, import / export, and other regulations of the countries in which we do business may adversely affect our business; • different technical standards or requirements, such as

country or region specific requirements to eliminate the use of lead, which we may incorporate into certain products, could prevent us from selling these products in these regions; • currency fluctuations may make our products less cost competitive, affecting overseas demand for our products or otherwise adversely affecting our business; and • language and other cultural barriers may require us to expend additional resources competing in foreign markets or hinder the ability to effectively compete. Negative developments in one or more countries or regions in which we operate or sell our products could result in a reduction in demand for our products, the cancellation or delay of orders already placed, difficulties in producing and delivering our products, threats to our intellectual property, difficulty in collecting receivables, or a higher cost of doing business, any of which could negatively impact our business, financial condition, cash flows, and results of operations. In addition, we may be exposed to legal risks under the laws of the countries outside the U. S. in which we do business, as well as the laws of the U. S. governing our business activities in those other countries, such as the U. S. Foreign Corrupt Practices Act (“FCPA”).

Risks Related to Intellectual Property Rights, Litigation, and Cybersecurity Failure to obtain or maintain the right to use certain intellectual property may adversely affect our business, financial condition, results of operations, and cash flows. Our industries are characterized by frequent litigation regarding patent and other intellectual property rights. From time to time we have received, and may receive in the future, notice of claims of infringement of other parties’ proprietary rights and licensing offers to commercialize third party patent rights. Numerous patents in our industries are held by others, including competitors and certain academic institutions. Competitors may seek to gain a competitive advantage, or other third parties may seek an economic return on their intellectual property portfolios, by making infringement claims against us. We cannot be certain that: • infringement claims (or claims for indemnification resulting from infringement claims) will not be asserted against us or that such claims will not be successful; • future assertions will not result in an injunction against the sale of infringing products, which could require us to cease the manufacture, use or sale of the infringing products, processes, or technology and expend significant resources to develop non- infringing technology, adversely affecting our business, results of operations, and cash flows; • any patent owned or licensed by us will not be invalidated, circumvented, or challenged; or • we will not be required to obtain licenses or pay substantial damages for past, present, and future use of the infringing technology, the expense of which may adversely affect results of operations and cash flows. For example, in June 2018, Phoenix commenced an arbitration against us with the American Arbitration Association (“AAA”) in New York and a special proceeding against us in the New York Supreme Court, Commercial Division. In June 2019, an interim award (the “Interim Award”) was issued in connection with certain of the claims in the AAA proceeding and in October 2019, the arbitrator issued a Modified Partial Final Award, which incorporated by reference the terms of the Interim Award and ordered and awarded, among other items, (a) an award to Phoenix of attorneys’ fees and costs in the amount of approximately \$ 3. 8 million, (b) an award to Phoenix of \$ 1. 0 million in damages owing for unpaid royalties through June 30, 2019, (c) an award to Phoenix of \$ 0. 1 million in prejudgment interest, calculated at the New York statutory rate of 9 % simple interest; and (d) payment to Phoenix of a royalty of 7. 5 % of the sale price on (i) future customer payments for certain EMCORE product contracts entered into prior to the Interim Award and (ii) customer payments for future sales of any product using any of the five trade secret subparts deemed in the Interim Award to have been misappropriated by EMCORE (collectively, the “Deemed Trade Secrets”), in each case payable in a single lump sum within one month of completion of the calendar quarter in which payment has been received from the customer, subject to certain limitations, until such time as EMCORE has in good faith determined, and can so document, that it has completely ceased use of the Deemed Trade Secrets. In addition, effective copyright and trade secret protection may be unavailable or limited in certain foreign jurisdictions. Litigation, which could result in substantial cost and diversion of resources, may be necessary to defend our rights or defend us against claimed infringement of the rights of others. In certain circumstances, our intellectual property rights associated with government contracts may be limited. If we fail to protect, or incur significant costs in defending, our intellectual property and other proprietary rights, our business and results of operations could be materially harmed. Success depends to a significant degree on the ability to protect our intellectual property and other proprietary rights. We rely on a combination of patent, trademark, trade secret, and unfair competition laws, as well as license agreements and other contractual provisions, to establish and protect our intellectual property and other proprietary rights. We have applied for patent registrations in the U. S. and selected international jurisdictions, most of which have been issued. We cannot guarantee that pending applications will be approved by the applicable governmental authorities. Moreover, existing and future patents and trademarks may not be sufficiently broad to protect our proprietary rights or may be held invalid or unenforceable in court. Failure to obtain patent registrations or a successful challenge to our registrations in the U. S. or other foreign countries may limit the ability to protect the intellectual property rights that these applications and registrations are intended to cover. We also attempt to protect our intellectual property, including our trade secrets and know- how, through the use of trade secret and other intellectual property laws, as well as contractual provisions. We enter into confidentiality and invention assignment agreements with employees and independent consultants. We also use non- disclosure agreements with other third parties who may have access to our proprietary technologies and information. Such measures, however, provide only limited protection, and we cannot be certain that our confidentiality and non- disclosure agreements will not be breached, especially after employees ~~or those of our CMOs~~ end their employment or engagement with us or with them, and that our trade secrets will not otherwise become known by competitors or that we will have adequate remedies in the event of unauthorized use or disclosure of proprietary information. Unauthorized third parties may try to copy or reverse engineer our products or portions of our products, otherwise obtain and use our intellectual property, or may independently develop similar or equivalent trade secrets or know- how. If we fail to protect our intellectual property and other proprietary rights, or if such intellectual property and proprietary rights are infringed or misappropriated, we could lose our competitive advantage and our business, results of operations, financial condition, and cash flows could be materially harmed. Policing unauthorized use of our technology is difficult, and we cannot be certain that the steps we have taken will prevent the misappropriation, unauthorized use, or other infringement of our intellectual property rights. Further, we may not be able to effectively protect our intellectual property rights from misappropriation or other

infringement in foreign countries where we have not applied for patent protections, and where effective patent, trademark, trade secret, and other intellectual property laws may be unavailable, or may not protect our proprietary rights as fully as U. S. law. In the future, we may need to take legal actions to prevent third parties from infringing upon or misappropriating our intellectual property or from otherwise gaining access to our technology. Protecting and enforcing our intellectual property rights and determining their validity and scope could result in significant litigation costs and require significant time and attention from our technical and management personnel, which could significantly harm our business. The availability of financial resources may limit the ability to commence or defend such litigation. In addition, we may not prevail in such proceedings. An adverse outcome of such proceedings may reduce our competitive advantage or otherwise harm our business, financial condition, results of operations, and cash flows. We may be obligated to indemnify customers and vendors for claims that our intellectual property infringes the rights of others, which may result in substantial expense to us. We may be required to indemnify customers or vendors for intellectual property claims made against them for products incorporating our technology. As such, claims against customers and vendors may require us to incur substantial expenses, such as legal expenses, damages for past infringement, or royalties for future use. Future indemnity claims could adversely affect business relationships and result in substantial costs to us. We face certain litigation risks that could harm our business. We may become subject to various legal proceedings and claims that arise in or outside the ordinary course of business. The results of legal proceedings are difficult to predict. Moreover, complaints that may be filed against us may not specify the amount of damages that plaintiffs seek, and we therefore may be unable to estimate the possible range of damages that might be incurred should these lawsuits be resolved against us. If any litigation is resolved against us, we could be subject to substantial damages. Thus, an unfavorable outcome or settlement of one or more lawsuits may have an adverse effect on our business, financial condition, results of operations, and cash flows. Even if litigation is not resolved against us, the uncertainty and expense associated with unresolved lawsuits could seriously harm our business, financial condition, and reputation. Litigation is costly, time-consuming, and disruptive to normal business operations. Costs of defending litigation have been significant in the past, may continue, and may not be covered by our insurance policies. The defense of litigation could also result in diversion of management's time and attention away from business operations, which could harm our business. We could be subject to legal consequences if we fail to comply with the Modified Partial Final Award issued in connection with the Phoenix legal proceedings. In the Interim Award incorporated by reference into the Modified Partial Final Award the arbitrator determined and ordered that we are required to pay Phoenix a royalty of 7.5% of the sale price on (a) future customer payments for certain of our product contracts previously entered into at the time the Interim Award was issued and (b) customer payments for future sales of any product using any Deemed Trade Secret, in each case payable in a single lump sum within one month of completion of the calendar quarter in which payment has been received from the customer, and we are required to concurrently submit to Phoenix a written report that sets forth the calculation of the amount of the royalty payment in a form similar to previous royalty reports, provided that following the first \$1.0 million of royalty payments on our EMP-1 product only, inclusive of payments made to date, we are required to pay to Phoenix a royalty of 2.25% of the sale price (net of any warranty work, returns, rebates, discounts, or credits) with respect to subsequent sales of our EMP-1 product. We are required to continue to make royalty payments in this manner until such time as we have in good faith determined, and can so document, that we have completely ceased use of the Deemed Trade Secrets, and must provide notice of this determination to Phoenix. It is possible that additional legal proceedings will follow in connection with delivery of this notice to Phoenix, which would require us to incur additional costs and divert management's attention. If we fail to comply with these obligations, we could be subject to additional claims, penalties, or judgments, which could harm our business, financial condition, results of operations, and cash flows. In addition, we could be subject to significant legal costs and expenses in connection with the interpretation of certain of the obligations pursuant to the Interim Award, which could harm our business, financial condition, results of operations, and cash flows. Our business and operations could be adversely impacted in the event of a failure or security breach of our information technology infrastructure. We rely upon the capacity, reliability, and security of our information technology hardware and software infrastructure and the ability to expand and update this infrastructure in response to changing needs. We are constantly updating our information technology infrastructure. Although we have a disaster recovery plan, any failure to manage, expand, and update our information technology infrastructure or any failure in the operation of this infrastructure could harm our business. In addition, we may be subject to a heightened risk of potential security breaches due to our sales to, and work with, government customers and the technologies that we develop for the defense industry. The secure maintenance of this information is critical to our business and reputation. Despite implementation of security measures, systems are vulnerable to damages from computer viruses, computer denial-of-service attacks, worms, and other malicious software programs or other attacks, covert introduction of malware to computers and networks, unauthorized access, including impersonation of unauthorized users, efforts to discover and exploit any security vulnerabilities or securities weaknesses, and other similar disruptions. These types of attacks have increased, in general, as more businesses implement remote working environments. Our business is also subject to break-ins, sabotage, and intentional acts of vandalism by third parties as well as intentional and unintentional acts by employees or other insiders with access privileges. Customers' network and storage applications may be subject to similar disruptions. It is often difficult to anticipate or immediately detect such incidents and the damage caused by such incidents. Data breaches and any unauthorized access or disclosure of information, employee information, or intellectual property could compromise our intellectual property, trade secrets, and other sensitive business information, any of which could result in legal action against us, exposure of our intellectual property to competitors, damages, fines, and other adverse effects. A data security breach could also lead to public exposure of personal information of employees, customers, and others. Any such theft, loss, or misuse of personal data collected, used, stored, or transferred by us to run our business could result in significantly increased security costs or costs related to defending legal claims. Cyber-attacks, such as computer viruses, or other forms of cyber terrorism, may disrupt access to our network or storage applications. Such disruptions could result in delays or cancellations of customer orders or delays or interruptions in the production or shipment of

products. Data security breaches involving data center customers could affect their financial condition and ability to continue to purchase our products. In addition, cyber- attacks may cause us to incur significant remediation costs, result in product development delays, disrupt key business operations, and divert attention of management and key information technology resources. These incidents could also subject us to liability, expose us to significant expense, and cause significant harm to our reputation and our business. In addition, our technology infrastructure and systems are vulnerable to damage or interruption from natural disasters, power loss, and telecommunications failures. Our products contain sophisticated hardware and operating system software and applications that may contain security problems, security vulnerabilities, or defects in design or manufacture including “ bugs ” and other problems that could interfere with the intended operation of our products. To the extent that any disruption or security breach results in a loss or damage to our technology infrastructure, systems, or data or inappropriate disclosure of confidential information or sensitive or personal information, it could harm relationships with customers and other third parties and damage our brand and reputation and our business. In addition, we may be required to incur significant costs to protect against damage caused by these disruptions or security breaches in the future. We may be subject to theft, loss, or misuse of personal data about employees, customers, or other third parties, which could increase expenses, damage our reputation, or result in legal or regulatory proceedings. The theft, loss, or misuse of personal data collected, used, stored, or transferred by us to run our business could result in significantly increased security costs or costs related to defending legal claims. Global privacy legislation, enforcement, and policy activity in this area are rapidly expanding and creating a complex compliance regulatory environment. Costs to comply with and implement these privacy- related and data protection measures could be significant. In addition, inadvertent failure to comply with federal, state, or international privacy related or data protection laws and regulations could result in proceedings against us by governmental entities or others or cause us to incur penalties or other significant legal liability or change business practices. Risks Related to Governmental Regulation We could be subject to legal and regulatory consequences if we fail to comply with applicable export control laws and regulations. Exports of certain products are subject to export controls imposed by the U. S. government and administered by the U. S. Departments of State and Commerce. In certain instances, these regulations may require pre- shipment authorization from the administering department. For products subject to the Export Administration Regulations (“ EAR ”) administered by the Department of Commerce’ s Bureau of Industry and Security, the requirement for a license is dependent on the type and end use of the product, the final destination, the identity of the end user, and whether a license exception might apply. Virtually all exports of products subject to the International Traffic in Arms Regulations (“ ITAR ”) administered by the Department of State’ s Directorate of Defense Trade Controls, require a license. Obtaining necessary export licenses can be difficult and time- consuming. Failure to obtain necessary export licenses could significantly reduce revenue and adversely affect our business, financial condition, results of operations, and cash flows. We could be subject to investigation and potential regulatory consequences, including, but not limited to, a no- action letter, monetary penalties, debarment from government contracting, or denial of export privileges and criminal sanctions, any of which would adversely affect our business, financial condition, results of operations, and cash flows. Compliance with U. S. government regulations may also subject us to significant fees and expenses, including legal expenses, and require us to expend significant time and resources. Finally, the absence of comparable restrictions on competitors in other countries may adversely affect our competitive position. **We** For a portion of our business, ~~we~~ are subject to extensive government regulation, and failure to comply with applicable regulations could subject us to penalties that may restrict the ability to conduct business. As a contractor and / or subcontractor to the U. S. government, we are subject to and must comply with various government regulations that impact revenue, operating costs, profit margins, and the internal organization and operation of our business. The most significant regulations and regulatory authorities affecting the portion of our business related to U. S. government contracts include the following: • the Federal Acquisition Regulations, Defense Federal Acquisition Regulation Supplement, and other supplemental agency regulations which comprehensively regulate the formation and administration of, and performance under, U. S. government contracts; • the Truth in Negotiations Act which requires certification and disclosure of all factual cost and pricing data in connection with contract negotiations; • the False Claims Act and the False Statements Act which impose penalties for payments made on the basis of false facts provided to the government and on the basis of false statements made to the government, respectively; and • the FCPA which prohibits U. S. companies from providing anything of value to a foreign official to help obtain, retain, or direct business, or obtain any unfair advantage. Failure to comply with applicable regulations, rules and approvals, or misconduct by any employee, could result in the imposition of fines and penalties, the loss of government contracts, or suspension or debarment from contracting with the U. S. government generally, any of which could harm our business, financial condition, results of operations, and cash flows. We are also subject to certain regulations of comparable government agencies in other countries, and failure to comply with these non- U. S. regulations could also harm our business, financial condition, results of operations, and cash flows. Our business related to government contracts subjects us to additional risks. We believe that for the foreseeable future the growth of our Inertial Navigation product line will depend, to a certain degree, on the ability to win government contracts and subcontracts, in particular from the Department of Defense. Many government customers are subject to budgetary constraints and our continued performance under these contracts or subcontracts, or award of additional contracts or subcontracts from these agencies, could be jeopardized by spending reductions, including constraints on government spending imposed by the Budget Control Act of 2011 and its subsequent amendments, budget cutbacks at these agencies, or government shutdowns. The funding of U. S. government programs is uncertain and dependent on continued congressional appropriations and administrative allotment of funds based on an annual budgeting process. We cannot be certain that current levels of congressional funding for our products and services will continue and that our business related to these products will not decline or increase at currently anticipated levels, or that we will not be subject to delays in the negotiation of contracts or increased costs due to changes in the funding of U. S. government programs or government shutdowns. A significant decline in government expenditures generally, or with respect to programs for which we provide products, could adversely affect our business and prospects. In addition, U. S.

government contracts generally permit the government to terminate the contract without prior notice, at the government's convenience, or for default based on performance. Government customers can also decline to exercise previously disclosed contract options. A termination arising out of our default could expose us to liability and adversely affect our ability to obtain future contracts and orders. Furthermore, on contracts for which we are a subcontractor and not the prime contractor, the U. S. government could terminate the prime contract for convenience or otherwise, irrespective of our performance as a subcontractor. Also, sales to the U. S. government and its contractors as well as foreign military and government customers, either directly or as a subcontractor to other contractors, often use a competitive bidding process and have unique purchasing and delivery requirements, which often makes the timing of sales to these customers unpredictable. In addition, our business could be adversely affected by a negative audit or investigation by the U. S. government. U. S. government agencies, primarily the Defense Contract Audit Agency and the Defense Contract Management Agency, routinely audit and investigate government contractors. These agencies review a contractor's performance under its contracts, cost structure, and compliance with applicable laws, regulations, and standards. These agencies also may review the adequacy of, and a contractor's compliance with, its internal control systems and policies, including the contractor's purchasing, quality, accounting, property, estimating, compensation, and management information systems. Any costs found to be improperly allocated to a specific cost reimbursement contract will not be reimbursed, while such costs already reimbursed must be refunded. If an audit or investigation of our business were to uncover improper or illegal activities, then we could be subject to civil and criminal penalties and administrative sanctions, including termination of contracts, suspension of payments, fines, and suspension or debarment from doing business with the U. S. government. We could experience serious harm to our reputation if allegations of impropriety or illegal acts were made against us, even if the allegations were inaccurate. In addition, responding to governmental audits or investigations may involve significant expense and divert management attention. Moreover, if any administrative processes and business systems are found not to comply with the applicable requirements, we may be subject to increased government scrutiny or required to obtain additional governmental approvals that could delay or otherwise adversely affect the ability to compete for or perform contracts. If any of the foregoing were to occur, our business, financial condition, operating results, and cash flows may be adversely affected. The costs of compliance with state, federal, and international legal and regulatory requirements, such as environmental, labor, trade, and tax regulations, and customers' standards of corporate citizenship could increase operating costs. We are subject to environmental and health and safety laws and regulations and must obtain certain permits and licenses relating to the use of hazardous materials in production activities. If control systems are unsuccessful in preventing a release of these materials into the environment or other adverse environmental conditions or human exposure occurs, we could experience interruptions in operations and incur substantial remediation and other costs or liabilities. We are also subject to a number of federal and state laws and regulations related to safety, including the Occupational Safety and Health Administration (" OSHA ") and comparable state statutes, the purpose of which are to protect the health and safety of workers. Failure to comply with OSHA requirements and other related state regulations, including general industry standards, record keeping requirements, and monitoring and control of occupational exposure to regulated substances, could have a material adverse effect on results of operations and financial condition if we are subjected to significant penalties, fines, or compliance costs. In addition, certain foreign laws and regulations place restrictions on the concentration of certain hazardous materials, including, but not limited to, lead, mercury, and cadmium, in our products. Failure to comply with such laws and regulations could subject us to future liabilities or result in the limitation or suspension of the sale or production of our products. These regulations include the EU's Restrictions on Hazardous Substances and Directive on Waste Electrical and Electronic Equipment. Failure to comply with environmental and health and safety laws and regulations may limit the ability to export products to the EU and could adversely affect our business, financial condition, results of operations, and cash flows. In addition, we purchase certain chemicals from Europe and Asia that are unique, nearing the end of life, and could be subject to future changes to environmental regulations in the country of origin and / or the U. S. In the event new restrictions are placed on any such chemicals, they may be difficult to replace, and may require us to re- design or re- validate existing products that use such chemicals in their production. In connection with compliance with such environmental laws and regulations, as well as compliance with industry environmental initiatives, the standards of business conduct required by some customers, and commitment to sound corporate citizenship in all aspects of our business, we could incur substantial compliance and operating costs and be subject to disruptions to operations. In addition, in recent years, there has been increased media scrutiny and associated reports focusing on a potential link between working in semiconductor manufacturing clean room environments and certain illnesses, primarily different types of cancers. Regulatory agencies and industry associations have begun to study the issue to see if any actual correlation exists. Because we utilize clean rooms, we may become subject to liability claims. These reports may also affect the ability to recruit and retain employees. If we were found to be in violation of environmental and safety regulations laws or noncompliance with industry initiatives or standards of conduct, we could be subject to government fines or liabilities owed to customers, which could have an adverse effect on our business, financial condition, results of operations, and cash flows. In addition, climate change is a significant topic of discussion and potential regulatory activity and has generated and may continue to generate federal or other regulatory responses in the near future. If we or component suppliers fail to timely comply with applicable legislation, customers may refuse to purchase products or we may face increased operating costs as a result of taxes, fines, or penalties, which may have an adverse effect on our business, financial condition, results of operations, and cash flows. The Department of Homeland Security has commenced a program to evaluate the security of certain chemicals which may be of interest to terrorists, including chemicals utilized by us. This evaluation may lead to regulations or restrictions affecting the ability to utilize these chemicals or the costs of doing so. We are subject to anti-corruption laws in the jurisdictions in which we operate, including the FCPA. Failure to comply with these laws could result in penalties which could harm our reputation and have an adverse effect on our business, results of operations, and financial condition. We are subject to the FCPA, which generally prohibits companies and their intermediaries from making improper

payments to foreign officials for the purpose of obtaining or keeping business and / or other benefits, along with various other anti- corruption laws. Although we have implemented policies and procedures designed to ensure that we, our employees, and other intermediaries comply with the FCPA and other anti- corruption laws to which we are subject, we cannot be certain that such policies or procedures will work effectively all of the time or protect us against liability under the FCPA or other laws for actions taken by employees and other intermediaries with respect to our business or any businesses that we may acquire. We have logistics operations with respect to our Broadband business in China and other jurisdictions, many of which pose elevated risks of anti- corruption violations, and we export products for sale internationally. This puts us in frequent contact with persons who may be considered “ foreign officials ” under the FCPA, resulting in an elevated risk of potential FCPA violations. If we are not in compliance with the FCPA and other laws governing the conduct of business with government entities (including local laws), we may be subject to criminal and civil penalties and other remedial measures, which could have an adverse impact on our business, financial condition, results of operations, and cash flows. Any investigation of any potential violations of the FCPA or other anti- corruption laws by U. S. or foreign authorities could harm our reputation and have an adverse impact on our business, financial condition, results of operations, and cash flows. **If we identify identified deficiencies a material weakness in our current system of internal controls over or fail to remediate them, we may not be able to accurately report financial results or prevent fraud. As a result, our business could be harmed and current and potential investors could lose confidence in our financial reporting and have concluded that our disclosure controls and procedures were not effective as of September 30, 2023. If we fail to properly remediate the material weakness or any future deficiencies or material weaknesses or to maintain proper and effective internal controls, material misstatements in our financial statements could occur and impair our ability to produce accurate and timely financial statements and could adversely affect investor confidence in our financial reports , which could negatively have an adverse effect affect on the trading price of our business equity securities.** We are subject to the ongoing internal control provisions of Section 404 of the Sarbanes- Oxley Act of 2002. These provisions provide for the identification of material weaknesses or other lesser deficiencies in internal control over financial reporting, which is a process to provide reasonable assurance regarding the reliability of financial reporting for external purposes in accordance with U. S. GAAP. **If In connection with the preparation of our Annual Report on Form 10- K for the fiscal year ended September 30, 2023, we cannot provide reliable and identified a material weakness in internal control over financial reporting. A material weakness is a deficiency, or a combination of deficiencies in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. As more fully described in Item 9A. “ Controls and Procedures ”, we determined that communications with regard to internal control objectives were not effective to require employees to report the existence of new or novel arrangements for technical accounting review, which resulted in our failure to design and implement effective controls over such transactions. The control deficiency resulted in a material error associated with identification of the existence of certain insurance premium and supplier financing agreements, whereby (i) certain items on our consolidated balance sheet were underreported in “ Other current assets ” with a consistent dollar amount underreported for “ Financing payable ” within our consolidated balance sheet and (ii) certain items on our consolidated statements of cash flows were underreported in payments to financing payables within “ Cash flows from financing activities ” and similar such underreporting of such items in other assets in “ Cash flows from operating activities ”. This error has been corrected in the consolidated financial reports, our statements as of brand- and for the fiscal year ended September 30, operating 2023, and as a results- result , and this material weakness did not result in a material misstatement to the annual market value of our- or equity securities interim consolidated financial statements previously filed or included in this Annual Report on Form 10- K. Although we have identified and are implementing actions intended to improve the effectiveness of our internal control over financial reporting and disclosure controls and procedures as more fully described in Item 9A. “ Controls and Procedures ”, and will continue to do so until such remediation is complete, there is no assurance that the actions we take will remediate the material weakness. We can give no assurance that additional material weaknesses will not arise in the future. Any failure to remediate the material weakness, or the development of new material weaknesses in our internal control over financial reporting, could result be harmed. We have in material misstatements the past discovered, and may in our financial statements the future discover, areas of internal controls that need improvement. We have devoted significant resources to remediate and improve internal controls. We have also been monitoring the effectiveness of these remediated measures. We cannot be certain that these-- the improvement measures taken will ensure adequate controls over financial processes and reporting in the future. Any failure to implement required, new, or improved controls, or difficulties encountered in their implementation, could harm operating results or cause us to fail to meet reporting obligations . This could cause us to fail to meet our reporting and financial obligations, which in turn could have a negative impact on our financial condition, results of operations or cash flows, restrict our ability to access the capital markets, require significant resources to correct the material weaknesses or deficiencies, subject us to fines, penalties or judgments, or harm our reputation . Inadequate internal controls could also cause investors to lose confidence in our reported financial information, which could have an adverse effect on the trading price of our equity securities. Further, the impact of these events could also make it more difficult for us to attract and retain qualified persons to serve on the Board of Directors or as executive officers, which could harm our business. Our internal control over financial reporting may not prevent or detect misstatements because of its inherent limitations, including the possibility of human error, failure or interruption of information technology systems, the circumvention or overriding of controls, or fraud. Even effective internal controls can provide only reasonable assurance with respect to the preparation and fair presentation of financial statements. If we fail to maintain the adequacy of our internal controls, including any failure to implement required new or improved controls, or if we experience difficulties in their implementation, our business and operating results could be harmed and the Company**

could fail to meet its financial reporting obligations. We could be required to record an impairment charge as a result of changes to assumptions used in our impairment testing. We have substantial long-lived assets and goodwill recorded on the balance sheet. If we make changes in our business strategy or if market or other conditions adversely affect business operations, we may be forced to record an impairment charge related to these assets, which would adversely impact results of operations. Impairment assessment inherently involves judgment as to assumptions about expected future cash flows and the impact of market conditions on those assumptions. Future events and changes in market conditions, underlying business operations, competition, or technologies may impact assumptions as to prices, costs, holding periods, or other factors that may result in changes in estimates of future cash flows. Although we believe the assumptions we used in testing for impairment are reasonable, we will continue to evaluate the recoverability of the carrying amount of **definite-lived intangible assets and** property, plant and equipment on an ongoing basis, and test **goodwill indefinite-lived intangible assets** annually or more frequently as indicated, and significant changes in any one assumption could produce a significantly different result. In such a circumstance, we may incur substantial impairment charges, which would adversely affect financial results. In any period where our stock price, as determined by market capitalization, is less than book value, this too could indicate a potential impairment and we may be required to record an impairment charge in that period. Compliance with regulations related to conflict minerals and other regulations with respect to our supply chains could increase costs and affect the manufacturing and sale of our products. Public companies are required to disclose the use of tin, tantalum, tungsten and gold (collectively, “conflict minerals”) mined from the Democratic Republic of the Congo and adjoining countries (the “covered countries”) if a conflict mineral (s) is necessary to the functionality of a product manufactured, or contracted to be manufactured, by us. We may determine, as part of compliance efforts, that certain products or components we obtain from suppliers contain conflict minerals. If we are unable to conclude that all products are free from conflict minerals originating from covered countries, this could have a negative impact on our business, reputation, and / or results of operations. We may also encounter challenges to satisfy customers who require that products be certified as conflict free, which could place us at a competitive disadvantage. Compliance with these rules could also affect the sourcing and availability of some of the minerals used in the manufacture of products or components we obtain from suppliers, including the ability to obtain products or components in sufficient quantities and / or at competitive prices. Certain customers are requiring additional information from us regarding the origin of raw materials and complying with these customer requirements may cause us to incur additional costs. Our supply chain is complex and we may be unable to verify the origins for all metals used in products. In addition, the U. S. federal government has issued policies for federal procurement focused on eradicating the practice of forced labor and human trafficking, and the United Kingdom and the State of California have issued laws that require us to disclose our policy and practices for identifying and eliminating forced labor and human trafficking in our supply chain. Several customers, as well as the Electronic Industry Citizenship Coalition, have also issued expectations to eliminate these practices that may impact us. While we have a policy and management systems to identify and avoid these practices in our supply chain, we cannot guarantee that suppliers will always be in conformance to these laws and expectations. We may face enforcement liability and reputational challenges if we are unable to sufficiently meet these expectations. Moreover, we are likely to encounter challenges with customers if we cannot satisfy their forced and trafficked labor policies and they may choose a competitor’s product. We may undergo an “ownership change” within the meaning of Section 382 of the Code, which could affect our ability to offset U. S. federal income tax against our net operating losses and certain of our tax credit carryovers. **In September 2023, our Board of Directors adopted the Section 382 of Tax Benefits Preservation Plan to diminish the risk that we could experience an “ownership change” as defined in Section 382 (“Section 382”) of the Internal Revenue Code of 1986, as amended contains rules (the “Code”), which could substantially limit or permanently eliminate our ability to utilize our net operating loss carryovers (collectively, the “NOLs”) to reduce potential future income tax obligations. Under the Code and the regulations promulgated thereunder by the U. S. Treasury Department, these NOLs may be “carried forward” in certain circumstances to offset any current and future taxable income and thus reduce federal income tax liability, subject to certain requirements and restrictions. While the amount and timing of our future taxable income cannot be predicted with any certainty and, accordingly, we cannot predict the amount of these NOLs that limit the will ultimately be used to reduce its income tax liability of a company, to the extent that undergoes the NOLs do not otherwise become limited, these NOLs could be a potentially valuable asset to us. As of September 30, 2023, we had federal net operating loss carryforwards of approximately \$ 391.5 million. In general, under Section 382, an “ownership change to utilize its net operating losses and tax credits (the “Tax Benefits”) existing as occurs if a shareholder or a group of shareholders who are deemed to own at least 5 % of a company’s stock individually or collectively increase the their date of such ownership by change. Under the rules, such an ownership change is generally any change in ownership of more than 50 % of a company’s stock percentage points over their lowest ownership percentage within a rolling three- year period. The If an ownership change occurs, Section 382 would impose an annual limit on the amount of the Company’s NOLs that can be used to offset the Company’s federal taxable income equal to the product of the total value of the Company’s outstanding equity immediately prior to the ownership change (reduced by certain items specified in Section 382) and the federal long- term tax- exempt interest rate in effect for the month of the ownership change. A number of complex rules generally operate by focusing apply to calculating this annual limit and there are several special rules that, depending on changes in ownership among shareholders considered by the rules- rule involved as owning, directly may apply to reduce or increase such limit indirectly, 5 % or more of the stock of a company and any change in ownership arising from new issuances of stock by the Company. If we were to undergo one or more “ownership changes” within the meaning of Section 382 of the Code, our NOLs net operating losses and certain of our tax credits existing as of the date of each ownership change may be unavailable, in whole or in part, to offset U. S. federal income tax resulting from our operations or any gains from the disposition of any of our assets and / or business, which could result in increased U. S. federal income tax liability . While we periodically monitor our NOLs and currently believe that**

an ownership change that would impair the value of its NOLs has not occurred, the complexity of Section 382's provisions and the limited knowledge any public company has about the ownership of its publicly traded stock make it difficult to determine whether an ownership change has in fact occurred. Furthermore, there is no assurance that we will be able to fully utilize our NOLs and we may be required to record an additional valuation allowance related to the amount of the NOLs that may not be realized. The Section 382 Tax Benefits Preservation Plan is intended to act as a deterrent to any person or group acquiring beneficial ownership of 4.99% or more of our outstanding common stock without the approval of the Board of Directors. A person who acquires, without the approval of the Board of Directors, beneficial ownership (other than as a result of repurchases of stock by the Company, dividends or distributions by the Company or certain inadvertent actions by shareholders) of 4.99% or more of the outstanding common stock (including any ownership interest held by that person's Affiliates and Associates as defined under the Section 382 Tax Benefits Preservation Plan) could be subject to significant dilution. Although the Section 382 Tax Benefits Preservation Plan is intended to reduce the likelihood of an "ownership change" that could adversely affect us, there is no assurance that the restrictions on transferability in the rights plan will prevent all transfers that could result in such an "ownership change". The Section 382 Tax Benefits Preservation Plan could make it more difficult for a third party to acquire, or could discourage a third party from acquiring, our Company or a large block of our common stock. A third party that acquires 4.99% or more of our common stock could suffer substantial dilution of its ownership interest under the terms of the Section 382 Tax Benefits Preservation Plan through the issuance of common stock or common stock equivalents to all shareholders other than the acquiring person. The foregoing provisions may adversely affect the marketability of our common stock by discouraging potential investors from acquiring our stock. In addition, these provisions could delay or frustrate the removal of incumbent directors and could make more difficult a merger, tender offer or proxy contest involving us, or impede an attempt to acquire a significant or controlling interest in us, even if such events might be beneficial to us and our shareholders.

Certain provisions of New Jersey law and our governing documents may make a takeover of our Company difficult even if such takeover could be beneficial to shareholders. Certain provisions of our organizational documents and New Jersey law could discourage potential acquisition proposals, delay, or prevent a change in control of the Company, or limit the price that investors may be willing to pay in the future for shares of common stock. For example, our amended and restated certificate of incorporation and amended and restated bylaws:

- provide that directors may be removed at any time, but only for cause and only by the affirmative vote of the holders of at least a majority of outstanding shares of capital stock entitled to vote generally in the election of directors cast at a meeting of shareholders called for that purpose;
- provide that a super majority vote of shareholders is required to amend some portions of our amended and restated certificate of incorporation and amended and restated bylaws, including requiring approval by the holders of 80% or more of the outstanding shares of capital stock entitled to vote generally in the election of directors for certain business combinations unless these transactions meet certain fair price criteria and procedural requirements or are approved by two-thirds of continuing directors;
- authorize the issuance of preferred stock, without any requirement of vote or class vote of shareholders, commonly referred to as "blank check" preferred stock, which shares of preferred stock may have rights senior to those of common stock;
- limit the persons who can call special shareholder meetings; shareholders do not have authority to call a special meeting of shareholders;
- establish advance notice requirements that must be complied with by shareholders to nominate persons for election to the Board of Directors or to propose matters that can be acted on by shareholders at shareholder meetings;
- do not provide for cumulative voting in the election of directors; and
- provide for the filling of vacancies on the Board of Directors by action of 66 2/3% of the directors and not by the shareholders.

These and other provisions in our organizational documents could allow the Board of Directors to affect the rights of shareholders in a number of ways, including making it difficult for shareholders to replace members of the Board of Directors. Because the Board of Directors is responsible for approving the appointment of members of the management team, these provisions could in turn affect any attempt to replace the current management team. These provisions could also limit the price that investors would be willing to pay in the future for shares of common stock. We may in the future adopt other measures that may have the effect of delaying or discouraging an unsolicited takeover, even if the takeover were at a premium price or favored by a majority of unaffiliated shareholders. Certain of these measures may be adopted without any further vote or action by shareholders and this could depress the price of our common stock.

General Risk Factors ~~The full effects of COVID-19 and~~ **If we fail to satisfy all applicable Nasdaq continued listing requirements, including other -- the potential future public health crises \$ 1.00 minimum closing bid price requirement, epidemics, pandemics or our similar events are uncertain and common stock may be delisted from Nasdaq, which could have a material and an adverse impact on the liquidity and market price of our common stock.** Our common stock is currently listed on Nasdaq, which has qualitative and quantitative continued listing requirements, including corporate governance requirements, public float requirements, and a \$ 1.00 minimum closing bid price requirement. Our common stock price is currently and may in the future be below the minimum bid price for continued listing on Nasdaq. On June 23, 2023, we received a letter (the "Notification Letter") from The Nasdaq Stock Market LLC stating that we were not in compliance with the minimum bid price requirements set forth in Nasdaq Listing Rule 5450 (a) (1) because our common stock failed to maintain a minimum closing bid price of \$ 1.00 per share for 30 consecutive business days, and that to regain compliance, the closing bid price of our common stock must be at least \$ 1.00 per share for a minimum of 10 consecutive business days at any time prior to December 20, 2023. On September 18, 2023, we applied to transfer our securities to The Nasdaq Capital Market, as allowed under Nasdaq rules, and on December 21, 2023, Nasdaq granted such request and a corresponding extension of the date by which we must regain compliance such that in order to regain compliance, the closing bid price of our common stock must be at least \$ 1.00 per share for a minimum of 10 consecutive business days at any time prior to June 17, 2024. While the Notification Letter has no immediate effect on the listing or trading of our common stock on Nasdaq, we intend to

actively monitor the bid price for our common stock between now and June 17, 2024 and will consider available options to resolve the deficiency and regain compliance with the minimum bid price requirement, such as a reverse stock split. If our common stock is delisted, it would likely have an adverse effect on the liquidity of our common stock, decrease the market price of our common stock, result in the potential loss of confidence by investors, suppliers, customers, and employees, and fewer business opportunities, and adversely affect our business, financial condition, operating results, and cash flows. The COVID-19 pandemic has negatively affected the U. S. and global economy, disrupted global supply chains, significantly restricted travel and transportation, resulted in mandated closures and orders to “shelter in place,” and created significant disruption of the financial markets. Further facility closures, work slowdowns or temporary stoppages could occur, which could delay our development efforts and adversely affect our deliveries to customers. Other countries have different practices and policies that can affect our international ability to obtain financing for our continuing operations and the operations of our suppliers and customers. If significant portions of our workforce are unable to work effectively, including because of illness, quarantines, absenteeism, government actions, facility closures, travel restrictions or other restrictions in connection with the COVID-19 pandemic, our operations will be negatively impacted. As described elsewhere in Item 1A, Risk Factors of this Annual Report on Form 10-K for the fiscal year ended September 30, 2022, we rely on other companies to provide materials, major components and products, and to perform a portion of the services that are provided to our customers under the terms of most of our contracts where we rely on these third parties. Many of our suppliers have at times temporarily ceased or limited their operations as a result of COVID-19 and failed to deliver parts or components to us. For example, COVID-19 driven component shortages and delays have required us to spend significant time sourcing critical components from alternative sources and, in some cases, forced us to design in alternative parts and qualify them with customers on short schedules. These or similar actions may continue in the future, and an extended period of global supply chain disruption caused by the response to COVID-19 could impact our ability to perform on our contracts and, if we are not able to implement alternatives or other mitigations, product deliveries could be adversely impacted. Our business and results of operations may continue to be negatively impacted by general economic and financial market conditions and market conditions in the industries in which we operate, and such conditions may increase the other risks that affect our business. In recent years, the world’s financial markets have experienced significant turmoil, resulting in reductions in available credit, increased costs of credit, extreme volatility in security prices, potential changes to existing credit terms, and rating downgrades of investments. These conditions have and may continue to materially and adversely affect the market conditions in the industries in which we operate and caused many customers to reduce their spending plans, leading them to draw down their existing inventory, and reduce orders for our products, which, in turn, may have had an adverse impact on our revenues. We cannot predict the timing, strength, or duration of any economic slowdown or subsequent economic recovery, worldwide or within our industries. It is possible that adverse economic macroeconomic conditions, including inflation, slowing growth or recession, and rising interest rates, could result in further setbacks, and that these customers, or others, could as a result, significantly reduce their capital expenditures, draw down their inventories, reduce production levels of existing products, defer introduction of new products, or place orders and accept delivery for products for which they do not pay us due to their economic difficulties or other reasons. If any of these events occur, our business, financial condition, results of operations, and cash flows may be adversely affected. Management continues to evaluate the impact of macroeconomic events, including inflation, on our business and our future plans and intends to take appropriate measures to help alleviate their impact, but there can be no assurance that these efforts will be successful. A weak or declining economy could also strain our suppliers, possibly resulting in supply disruption, or cause our customers to delay making payments for our products. A severe or prolonged economic downturn, such as the global financial crisis, could also reduce our ability to raise additional capital when needed on acceptable terms, if at all. Further, the funding of the defense programs that incorporate our products and services is subject to the overall U. S. government budget and appropriation decisions and processes, which are driven by numerous factors beyond our control, including geo-political, macroeconomic, public health and political conditions. We are unable to predict the likely duration and severity of adverse economic conditions in the United States and other countries, but the longer the duration or the greater the severity, the greater the risks we face in operating our business. The near-term potential for recessionary economic conditions and possible stagflation (persistent high inflation and stagnant economic demand) presents increased risks to our business. Natural disasters or other catastrophic events could have an adverse effect on our business. Natural disasters such as hurricanes, earthquakes, fires, and floods, could adversely affect operations and financial performance. Such events could result in physical damage to one or more facilities, the temporary closure of one or more facilities or those of our suppliers, a temporary lack of an adequate work force in a market, a temporary or long-term disruption in the supply of products from some local and overseas suppliers, a temporary disruption in the transportation of goods from overseas, and delays in the delivery of goods. Public health issues, such as the COVID-19 pandemic, whether occurring in the U. S. or abroad, could disrupt our operations, disrupt the operations of suppliers or customers, or have an adverse impact on customer demand. As a result of any of these events, we may be required to suspend operations in some or all locations, which could have an adverse effect on our business, financial condition, results of operations, and cash flows. These events could also reduce demand for our products or make it difficult or impossible to receive products from suppliers. Although we maintain business interruption insurance and other insurance intended to cover some of these risks, such insurance may be inadequate, whether because of coverage amount, policy limitations, the financial viability of the insurance companies issuing such policies, or other reasons. We may not pay dividends on our common stock and, consequently, the only opportunity to achieve a return on an investment in our common stock may be an increase in the price of our common stock. We may not pay dividends in the future. The terms of our loan and security agreement with our financial institution restrict our ability to pay dividends. Consequently, the only opportunity to achieve a return on an investment in our common stock may be through an increase in the market price of our common stock over the price paid, of which there is no

guarantee. * * * The risks above are not the only risks we face. If any of the events described in our risk factors actually occur, or if additional risks and uncertainties not presently known to us or that we currently deem immaterial materialize, then our business, financial condition, results of operations, and cash flows could be materially affected.